FORT MILL

TOWN OF FORT MILL
PLANNING COMMISSION MEETING
August 25, 2015
112 Confederate Street
7:00 PM

AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

1. Regular Meeting: July 28, 2015 *[Pages 3–7]*

OLD BUSINESS ITEMS

1. **Commercial Appearance Review: A Lock-It Self Storage** *[Pages 8–21]*

   Request from A Lock It, Inc. to grant commercial appearance review approval for a proposed addition of three self-storage buildings located at 1399 Highway 160 East

2. **Commercial Appearance Review: Multi-Tenant Commercial Bldg** *[Pages 22–35]*

   Request from WSB Retail Partners to grant commercial appearance approval for a proposed multi-tenant commercial building located at 100 Fort Mill Square Suite 107

3. **Commercial Appearance Review: Sleep Inn** *[Pages 36–62]*

   Request from Diversified Enterprises, Inc. to grant commercial appearance review approval for a proposed Sleep Inn hotel located at the corner of Sutton Road and the I-77 northbound exit 83 ramp

NEW BUSINESS ITEMS

1. **Annexation Request: Talkington Property** *[Pages 63–112]*

   An ordinance annexing York County Tax Map Numbers 774-00-00-004 & 774-00-00-005, containing approximately 161 acres on S Dobys Bridge Road

ITEMS FOR INFORMATION / DISCUSSION

1. **Impact Fee Ordinance Update**
2. **Rezoning Request: 113 Railroad Avenue (Withdrawn)**
3. **Pending Appearance Review Request: Holiday Inn Express**

ADJOURN

MINUTES
TOWN OF FORT MILL
PLANNING COMMISSION MEETING
July 28, 2015
112 Confederate Street
7:00 PM

Present: Chairman James Traynor, Ben Hudgins, Hynek Lettang, John Garver, Tom Petty, Jay McMullen, Planning Director Joe Cronin, Assistant Planner Chris Pettit

Absent: Chris Wolfe

Guests: Matt Levesque (ESP Associates), Scott Wells (Sleep Inn), Nick Vrettos (Sleep Inn), Brian Collins (Pulte Group), Matt Mandle (ESP Associates), Cisco Garcia (Pulte Homes), Dan Mummey (Clear Springs/Springland)

Chairman Traynor called the meeting to order at 7:00 pm and welcomed everyone in attendance.

Mr. Hudgins made a motion to approve the minutes from the June 23, 2015, meeting, with a second by Mr. Garver. The minutes were approved by a vote of 6-0.

Planning Director Cronin stated that he had been notified by Mr. Wolfe in advance of the meeting that he would be out of town and unable to attend the meeting.

Chairman Traynor stated that he had a conflict of interest on old business item #1 and new business item #2, and therefore, he would be recusing himself from discussion of those items.

OLD BUSINESS ITEMS

Chairman Traynor left the room at 7:02 pm. Vice Chairman Hudgins presided as acting Chair.

1. **Subdivision Plat: Avery Plaza:** Planning Director Cronin stated that the property owner, Springland Associates LLC, was seeking approval to subdivide a 22.7 acre parcel at the northeast quadrant of SC Highway 160 E and Springfield Parkway (containing Avery Plaza) into five parcels ranging in size from 1.63 acres to 10.93 acres. Planning Director Cronin added that the new lots were consistent with the requirements of the HC district, and therefore, staff recommended in favor of approval. He added that there were two minor changes to the plat that was included in the agenda packet, and highlighted the addition of two easements to allow for future internal connectivity to neighboring parcels. Mr. Petty made a motion to accept the revisions including the two access easements, and to approve the subdivision plat as amended. Mr. Lettang seconded the motion. The motion was approved by a vote of 5-0.

Chairman Traynor returned to the room at 7:05 pm and resumed his duties as Chairman.

NEW BUSINESS ITEMS

1. **Annexation Request: Pulte Home Corporation:** Planning Director Cronin stated that Pulte Home Corporation has submitted an annexation application for a 3.64 acre parcel located at 154 York Southern Road. The property is an unincorporated "doughnut hole" and is completely surrounded by property which is currently under development by Pulte as the Carolina Orchards subdivision. Pulte was requesting a zoning designation of MXU Mixed Use, and a concept plan and development conditions were proposed for consideration with the next agenda item. Planning Director Cronin added that since this was a small parcel that was completely surrounded by a large mixed use tract, staff recommended in favor of approval with MXU zoning. Mr. McMullen made a motion to recommend in favor of the annexation request with a zoning designation of MXU. Mr. Garver seconded the request. The motion was approved by a vote of 6-0.

Chairman Traynor left the room at 7:08 pm. Vice Chairman Hudgins again presided as acting Chair.

2. **MXU Concept Plan & Development Conditions Carolina Orchards Project:** Planning Director Cronin stated that the Pulte's proposed development conditions for the MXU project would allow for up to 15 additional single-family lots (4.12 units per acre), though the concept plan anticipated that the property would likely yield 9 lots (2.47 units per acre). It was staff's opinion that this density was consistent with the comprehensive plan, as well as the development plan for the surrounding Carolina Orchards project. Staff recommended in favor of approval, with the addition of a paragraph in the development conditions that the property would be subject to any future impact fees, if adopted by town council. Mr. Petty made a motion to recommend in favor of the mixed use concept plan and development conditions, including the amendment recommended by staff. Mr. McMullen seconded the request. The motion was approved by a vote of 5-0.

Chairman Traynor returned to the room at 7:14 pm and resumed his duties as Chairman.

3. **Commercial Appearance Review: Sleep Inn:** Planning Director Cronin stated that council had given final reading to the annexation ordinance for York County Tax Map Number 661-00-00-015 the previous evening, and therefore, the parcel was now located within the town limits, with a zoning designation of HC Highway Commercial. Assistant Planner Pettit provided an overview of the request, the purpose of which was to review a proposed four-story, 100-room, Sleep Inn hotel at the intersection of Sutton Road and I-77. Assistant Planner Pettit noted that this would be the first project permitted within the new Corridor Overlay District, and outlined a number of items for the Planning Commission's consideration. Architect Nick Vrettos spoke on behalf of the applicant, and stated that they were seeking preliminary comments on the hotel plans, and that the designs and site layout would change to meet the town's requirements.

   Chairman Traynor stated that since this would be the first building permitted within the new overlay district, this project would set the tone for the area. He added his expectation that the building should look better than any average building you'd see along I-77, and

should include enhanced materials and architectural design elements. He also asked whether there would be any internal connectivity to neighboring properties.

Mr. Hudgins asked about the proposed building setback, which had been discussed at the time the Planning Commission first reviewed the annexation request. It was noted that although the building was not drawn up directly to the street, the site plan did include only one row of parking between the building and the road, which was substantively in compliance with the overlay district.

Mr. Petty urged the applicant to review the purpose statement and intent of the overlay district, as those items set the tone for the types of enhancements that the Planning Commission will be looking for.

Mr. Hudgins made a motion to defer consideration of the request, with a second by Mr. Garver. The motion was approved by a vote of 6-0.

ITEMS FOR INFORMATION / DISCUSSION

1. **Impact Fee Ordinance Update**: Planning Director Cronin stated that council had held a public hearing on the draft impact fee ordinance the previous evening, during which time about a dozen comments were received. First reading consideration of the ordinance was pushed back to the August 10th meeting, and a second public hearing will take place on that date as well.

2. **Preliminary Plat: Massey Phase 2**: Planning Director Cronin stated that Phase 2 of the Massey subdivision has been sold to David Weekley Homes, and clearing and grading have recently begun. He added that staff was in the process of reviewing a minor modification to the approved preliminary plat to reposition several lots at the rear of the property due to topography. Because no new lots were being added, the PND Development Conditions for Massey will allow these changes to be reviewed and approved administratively.

3. **Preliminary Plat: Kingsley Road B & Kingsley Town Center**: Planning Director Cronin informed commissioners that staff has reviewed and approved preliminary plats for Kingsley Road B (Highway 21 Bypass access) and Kingsley Town Center, as allowed by the MXU district.

4. **Final Plat: Carolina Orchards Boulevard & Villages A,B,F,G**: Planning Director Cronin stated that staff was in the process of reviewing and approving final plats for Carolina Orchards Boulevard, and Villages A, B, F and G. Staff has received and approved bond estimates, and it was anticipated that the final plats would be approved administratively within the next 3-5 days. Because the Planning Commission has already approved a master road name list, no further action was required.

5. **Upcoming UDO Advisory Committee Meetings**: Planning Director Cronin reminded commissioners of three upcoming UDO Advisory Committee meeting dates: August 5th,

August 18th and September 16th. All meetings will begin at 6:30 pm and will take place in the Spratt Building.

There being no further business, the meeting was adjourned at 7:57 pm.

Respectfully submitted,

Joe Cronin
Planning Director

RECUSAL STATEMENT

Member Name: JAMES TRAYNOR

Meeting Date: JULY 28, 2015

Agenda Item: **Section** OLD BUSINESS #1 NEW BUS # 2 **Number:** _____

Topic: AVERY PLAZA PLAT

MXU CONCEPT PLAN & DEV. COND - ORCHARDS project

The Ethics Act, SC Code §8-13-700, provides that no public official may knowingly use his office to obtain an economic interest for himself, a family member of his immediate family, an individual with whom he is associated, or a business with which he is associated. No public official may make, participate in making, or influence a governmental decision in which he or any such person or business has an economic interest. Failure to recuse oneself from an issue in which there is or may be conflict of interest is the sole responsibility of the council member (1991 Op. Atty. Gen. No. 91-37.) A written statement describing the matter requiring action and the nature of the potential conflict of interest is required.

Justification to Recuse:

_____ **Professionally employed by or under contract with principal**

_____ **Owns or has vested interest in principal or property**

✓ **Other:** AN AFFILIATE of employer OWNS AVERY PLAZA

COMPANY I WORK FOR SOLD SITE of ORCHARDS TO PULTE

Date: 7/27/15

J Traynor
Member

Approved by Parliamentarian: _____

Planning Commission Meeting
August 25, 2015
New Business Item

Commercial Appearance Review: A Lock It Self Storage
Request from A Lock It, Inc. to grant commercial appearance review approval for a proposed addition of three self-storage buildings located at 1399 Highway 160 East

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Background / Discussion

The Planning Commission is asked to consider a request from A Lock It, Inc. to grant commercial development appearance review approval for three proposed self-storage buildings on the property located at 1399 Highway 160 East.

The property (Tax Map # 020-08-01-003) is zoned Highway Commercial (HC), wherein self-storage/mini-warehouses are conditional uses and allowed in instances where the following conditions are met:

1. Any outdoor storage shall be conducted entirely within storage yards separate from buildings. Such storage yards shall be screened from public view. A six-foot high fence or wall shall enclose the area, and the area shall be paved or graveled with no grass allowed to grow in the storage area.
2. Storage of any items, including vehicles, in interior traffic aisles, off-street parking areas, loading areas or driveway areas is prohibited.
3. Lighting used to illuminate any interior traffic aisle, off-street parking area, loading or unloading area, or storage area, shall be shielded or so arranged as to reflect light away from adjoining premises.
4. Mini-warehouses shall be designed, landscaped, screened, or otherwise treated in a manner that will be aesthetically pleasing and compatible with surrounding uses.
5. Traffic aisles shall be of sufficient width so as to allow for loading and unloading, maneuvering and circulation of vehicles, and shall in no case be less than 20 feet in width.
6. Use of mini-warehouse compartments or yards for any purpose other than the storage of goods is prohibited.

The applicant intends to add three additional self-storage buildings to the already existing eleven self-storage buildings on the property. The proposed additions total 28,200 square feet and will be accessed off the existing driveway from Highway 160.

The proposed building elevations, site plan, and landscaping plan are attached for review. A full set of building designs and proposed materials will be available during the Planning Commission meeting. The two buildings interior to the site (Buildings Y and Z) will consist of metal roofing and metal panel siding, as typically associated with self-storage buildings. Building X, which fronts Highway 160, will feature an enhanced front/side façade made up of a variety of enhanced materials (see updates 1 and 2, paper copies of the original drawings will be available during the

meeting). Wall signage has been included on the drawing, which would be required to be no larger than 150 square feet per the sizing requirements of the zoning ordinance.

The landscape plan shows a mixture of shrubbery and trees along the entire street-side façade of Building X. A fence and additional shrubbery will line the western edge of the development to screen the internal areas of the site as seen travelling eastbound on Highway 160. The plan shows a mixture of black chain-link product and decorative aluminum fencing (in high visibility areas).

Photos of nearby buildings are attached for reference. Additional items included for reference include images showing the eastbound and westbound viewshed as seen travelling along Highway 160 and an image of a local building to assist the Planning Commissioners with understanding the scale of Building X (230 feet in length).

Recommendation

Staff has reviewed the site plan and found no major deficiencies. The plan appears to feature high quality building materials and enhanced architectural features. The applicants have included faux windows, awnings, and ornamental lighting, which help breaking up the building's mass. Landscaping appears to provide an appropriate level of screening to block the view of internal areas. Staff would recommend moving the fencing along the western property line to the interior of the property with the landscaping on the outer edge, so neighboring properties would see landscaping as opposed to fencing. Staff recommends approval.

Chris Pettit
Assistant Planner
August 25, 2015


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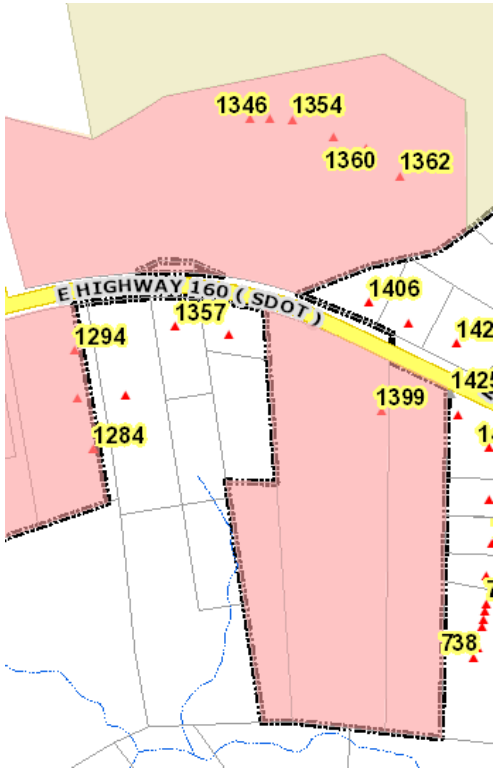
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FOOD LION

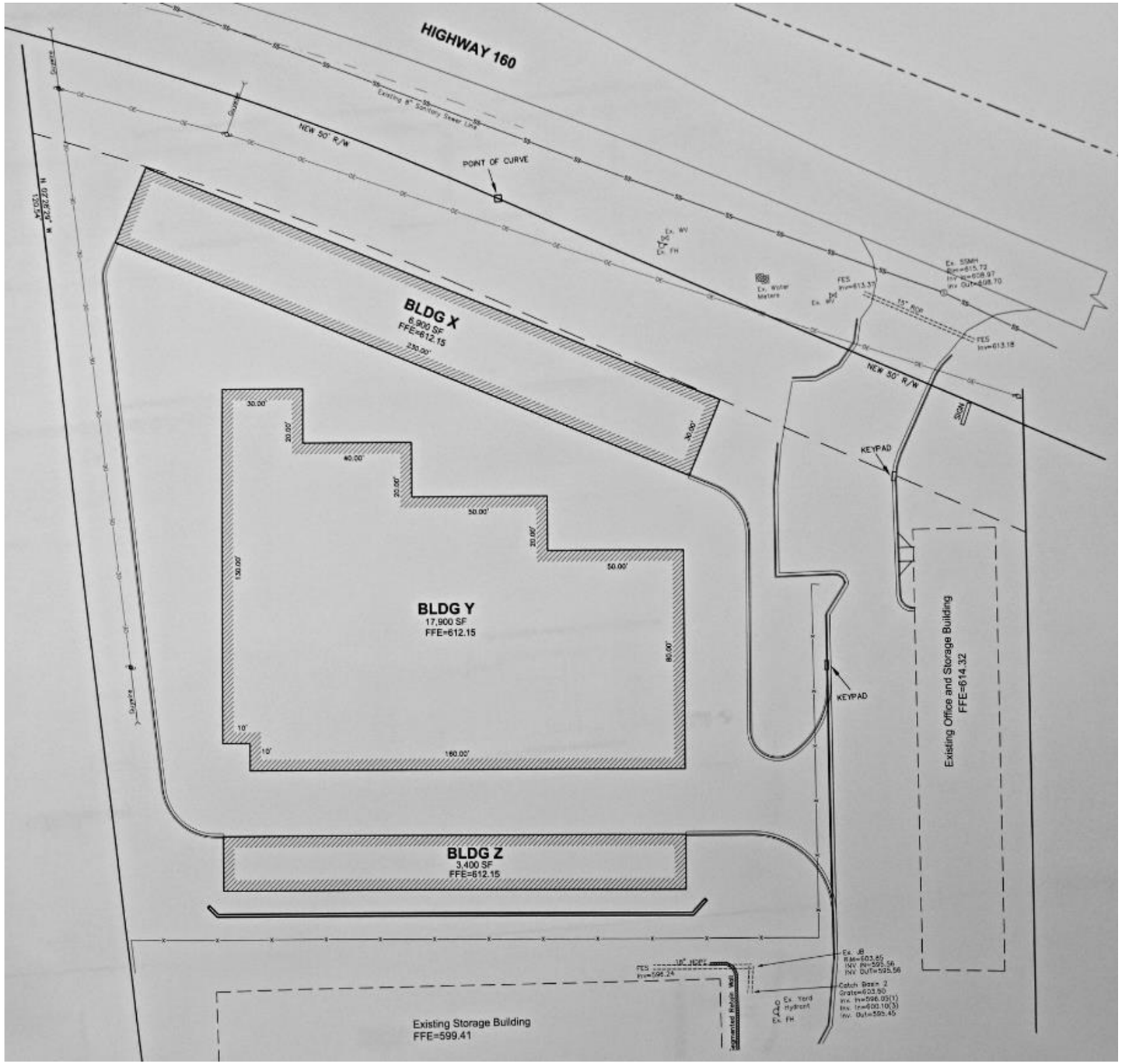

Walgreens

Westbound Viewshed

Eastbound Viewshed

Scale Reference (Approx. 240 feet – Crown Plaza at Regent Park – 3160 HWY 21)

Site Plan

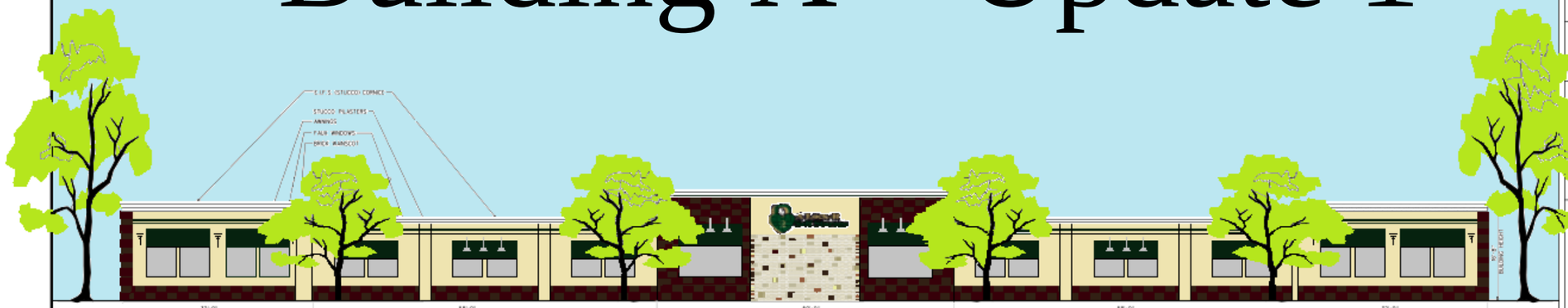

HIGHWAY 160
NEW 50' R/W
POINT OF CURVE
BLDG X
6,900 SF
FFE=612.15
BLDG Y
17,900 SF
FFE=612.15
BLDG Z
3,400 SF
FFE=612.15
KEYPAD
Existing Office and Storage Building
FFE=614.32
Existing Storage Building
FFE=599.41

Landscape Plan

LEGEND

	COMMON NAME	BOTANICAL NAME	SIZE	QTY
SHRUB, EVERGREEN BROADLEAF				
	HOLLY, NEEDLEPOINT	ILEX CORNUTA 'NEEDLEPOINT'	7 GAL.	91
	HOLLY, DWARF YAUPON	ILEX VOMITORIA 'NANA'	3 GAL.	66
	AZALEA, ENCORE	RHODODENDRON X. ENCORE	3 GAL.	56
TREE				
	CYPRESS, LEYLAND	CUPRESSOSYPARIS X. LEYLANDI	15 GAL.	27
	DOGWOOD, KOUSA	CORNUS KOUSA	7/8'	4
	ELM, LACEBARK	ULMUS PARVIFOLIA 'ALLEE'	2.5/3"	2

Building X – Update 1



STREET ELEVATION: BUILDING X
SCALE: 1/8" = 1'-0"

SIDE ELEVATION/PROFILE: BUILDING X
SCALE: 1/8" = 1'-0"

Wilber Associates
Architecture / Planning
P.O. Box 429 • 3044 N. Zion St.
Carrollton, N.C. 28033
704-899-3633

NOTE
This drawing is property of the firm, Wilber Associates. Reproduction or reuse in part or in whole without written permission is forbidden.

SEAL

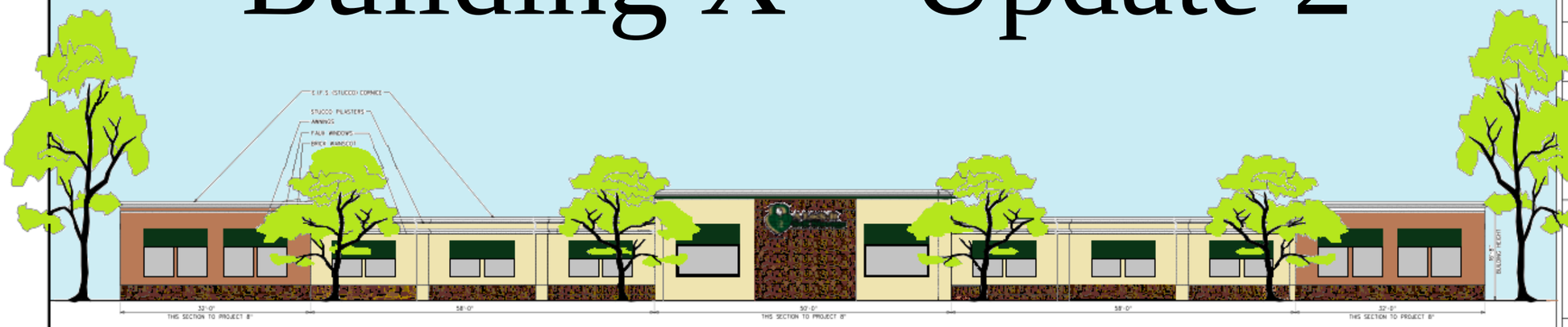
TITLE

NEW SELF STORAGE BUILDINGS FOR
A-LOCK-IT STORAGE
1399 EAST HIGHWAY 160
FORT MILL, SOUTH CAROLINA

COMM. NO. 1538
DATE 8/12/15
REVISIONS

SHEET
A-1
OF
1

Building X – Update 2



STREET ELEVATION: BUILDING X
SCALE: 1/8" = 1'-0"

SIDE ELEVATION/PROFILE: BUILDING X
SCALE: 1/8" = 1'-0"

Wilber Associates
Architecture / Planning
P.O. Box 428 • 20944 N. Zion St.
Cornelius, N.C. 28031
704-892-2633

NOTE
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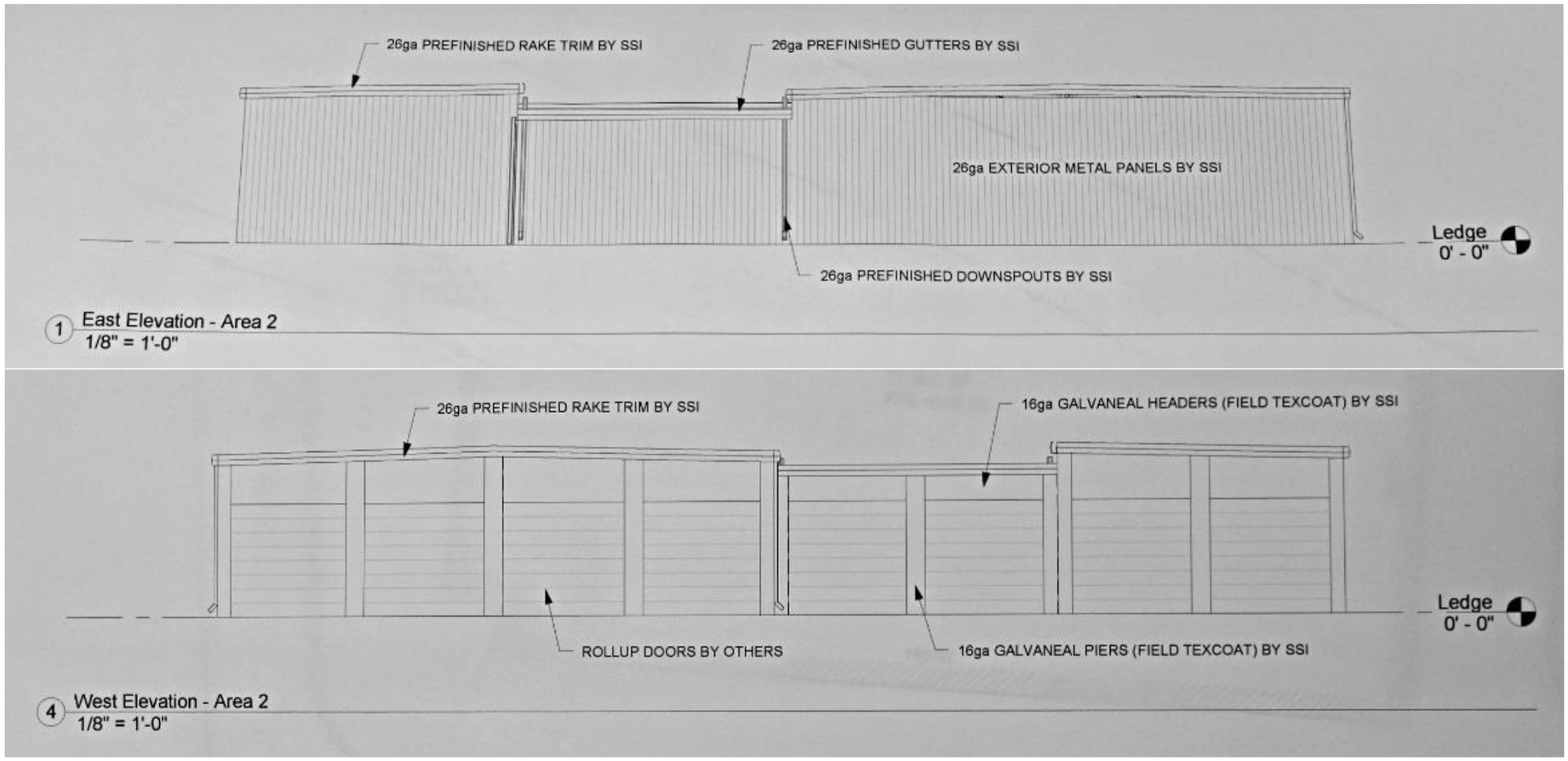
SEAL

TITLE

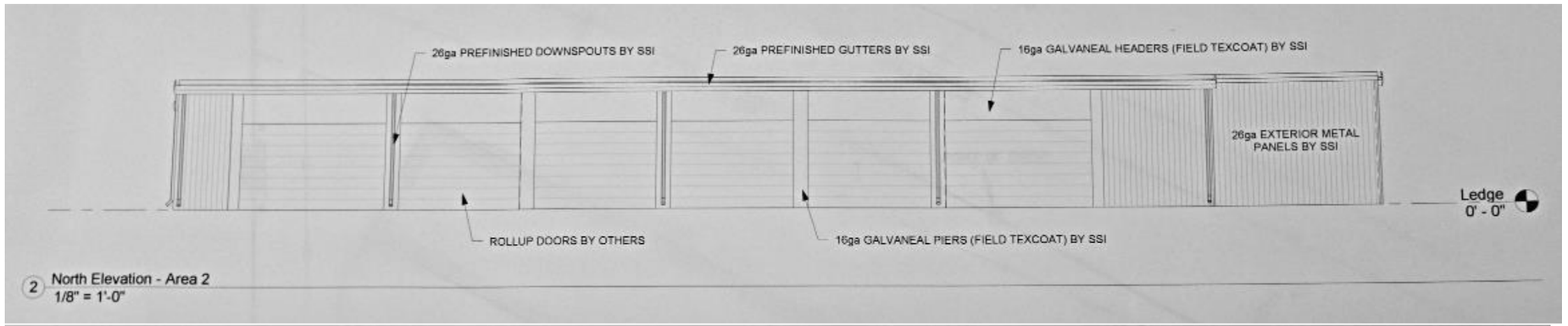
NEW SELF STORAGE BUILDINGS FOR
A-LOCK-IT STORAGE
1399 EAST HIGHWAY 160
FORT MILL, SOUTH CAROLINA

COMM. NO. 1538
DATE 8/12/15
REVISIONS

SHEET
A-1
OF
1



Building Y Elevations



Building Y Elevations

Sec. 5. - Appearance standards.

1) *Relationship of building site:*
   A) The proposed commercial development shall be designed and sited to accomplish a desirable view as observed from adjacent streets.
   B) Parking areas shall be enhanced with decorative elements, building wall extensions, plantings, berms, or other innovative means to screen parking areas from view from the streets.
   C) Utility services shall be underground.
2) *Relationship to adjoining areas:*
   A) Adjacent buildings of different architectural styles shall be made compatible by use of screens, sight breaks, materials, and other methods.
   B) Landscaping shall provide a transition to adjoining property.
   C) Texture, building lines, and mass shall be harmonious with adjoining property. Monotonous texture, lines, and mass shall be avoided.
3) *Landscaping:* Landscaping shall conform to article IV and other sections of this ordinance.
4) *Building design:*
   A) Architectural style is not restricted. Quality of design and compatibility with surrounding uses shall provide the basis of the evaluation of the appearance of a proposed commercial development.
   B) Materials shall be of good architectural character and shall be harmonious with adjoining buildings.
   C) Materials shall be suitable for the type and design of the building. Materials which are architecturally harmonious shall be used for all exterior building walls and other exterior building components.
   D) Materials and finishes shall be of durable quality.
   E) Building components, such as windows, doors, eaves, and parapets, shall have appropriate proportion and relationships to one another.
   F) Colors shall be harmonious and shall use compatible accents.
   G) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from view with materials harmonious with the building.
   H) Monotony of design shall be avoided. Variation in vegetation, detail, form, and siting shall be used to provide visual interest.
5) *Signs:*
   A) Signs shall conform to the provisions of article III and this article.
   B) Every sign shall be of appropriate scale and proportion in relation to the surrounding buildings.
   C) Every sign shall be designed as an integral architectural element of the building and site to which it relates.
   D) The colors, materials, and lighting of every sign shall be harmonious with the building and site to which it relates.
   E) The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's principal message and shall be in proportion to the area of the sign.
   F) Each sign shall be compatible with signs on adjoining plots or buildings.
   G) Corporation logos shall conform to the criteria for all other signs.
6) *Miscellaneous structures:* Miscellaneous structures and hardware shall be part of the architectural concept of the project. Materials, scale, and colors shall be compatible with the building and surrounding uses.

Planning Commission Meeting
August 25, 2015
Old Business Item

Commercial Appearance Review: Multi-Tenant Commercial Building
Request from WSB Retail Partners to grant commercial appearance approval for a proposed multi-tenant commercial building located at 100 Fort Mill Square Suite 107

Background / Discussion

08/21/15 Update: Planning staff met with the developer of the building in early-August to discuss proposed alterations to the building plan and design of the multi-tenant commercial building. Due to cost overruns with the site preparation for the Walmart Neighborhood Market (due to unexpected environmental clean-up), the applicant has developed a new proposal to renovate/expand the existing concrete block building (formally used by tire shop) to create the multi-tenant commercial building at the Fort Mill Square site. While the applicant has attempted to recreate the already approved design (originally approved June '14, amended February '15), planning staff felt that the change in design was substantive thus requiring Planning Commission approval.

The new proposal would be to utilize the existing 6,000 square foot concrete block building and add a 1,200 square foot addition for a total of 7,200 square feet of commercial space, which is the approved size of the previous proposal. The building would sit in the same location as the previously approved design, however the site plan would change due to slight differences in the building's design features near the outdoor patio area.

Some of the notable changes to the design include:

- Changes in awning design, moving away from the flat/steel cable awning to all fabric awnings;
- Increase in the number of awnings, with some added to the west elevation and east elevation;
- Reduction in the total building height; and,
- Changes in the total amount of brick and the amount of detail in the brick work.

Recommendation

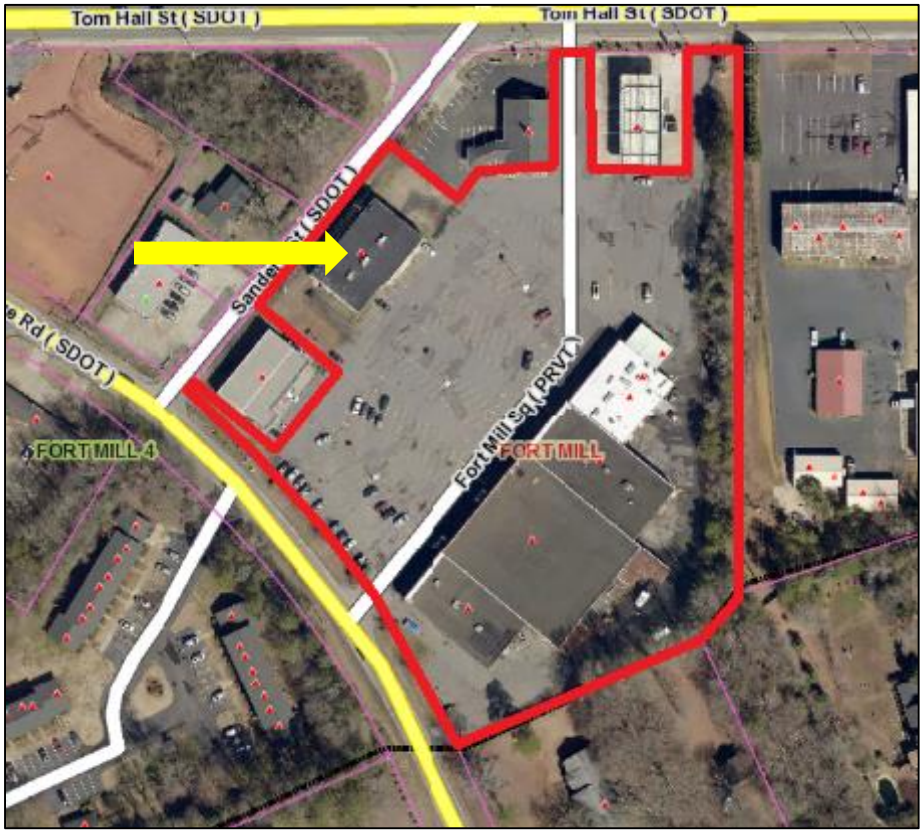
As stated in the Zoning Ordinance related to the THCD overlay district:

> "Buildings shall be designed to use, to the greatest extent feasible, building materials such as rock, stone, brick and wood or any other material so deemed appropriate through the appearance review per article V of the zoning code so as to maintain the specialized commercial and historic character of the corridor."

In the past, the Planning Commission has sought to limit the use of EIFS as a primary building material in the overlay district. Staff will note that the applicant is proposing to use more EIFS than the previously approved design, replacing the use of brick in several locations. Additionally, in staff's opinion, the proposed reduction in the height of the building further reduces the amount of brick used in the façades, minimizing the brick's impact on the visual appearance of the building.

The Planning Commission shall have the discretion to determine whether the proposed amendment to the design meets the intent of the THCD overlay district.

Chris Pettit, AICP
Assistant Planner
August 21, 2015


Tom Hall St (SDOT)
Tom Hall St (SDOT)
Rd (SDOT)
FORT MILL 4
FORT MILL


Fort Mill Sq
e Cir


StateFarm
PRO NAILS SPA


FAMILY DOLLAR

EXISTING BUILDING

JUNE ‘14 APPROVED

FEB. ’15 REVISED

AUGUST ’15 PROPOSAL

South Elevation—Renovation Submission August 2015

South Elevation—Approved February 2015

North Elevation—Renovation Submission August 2015

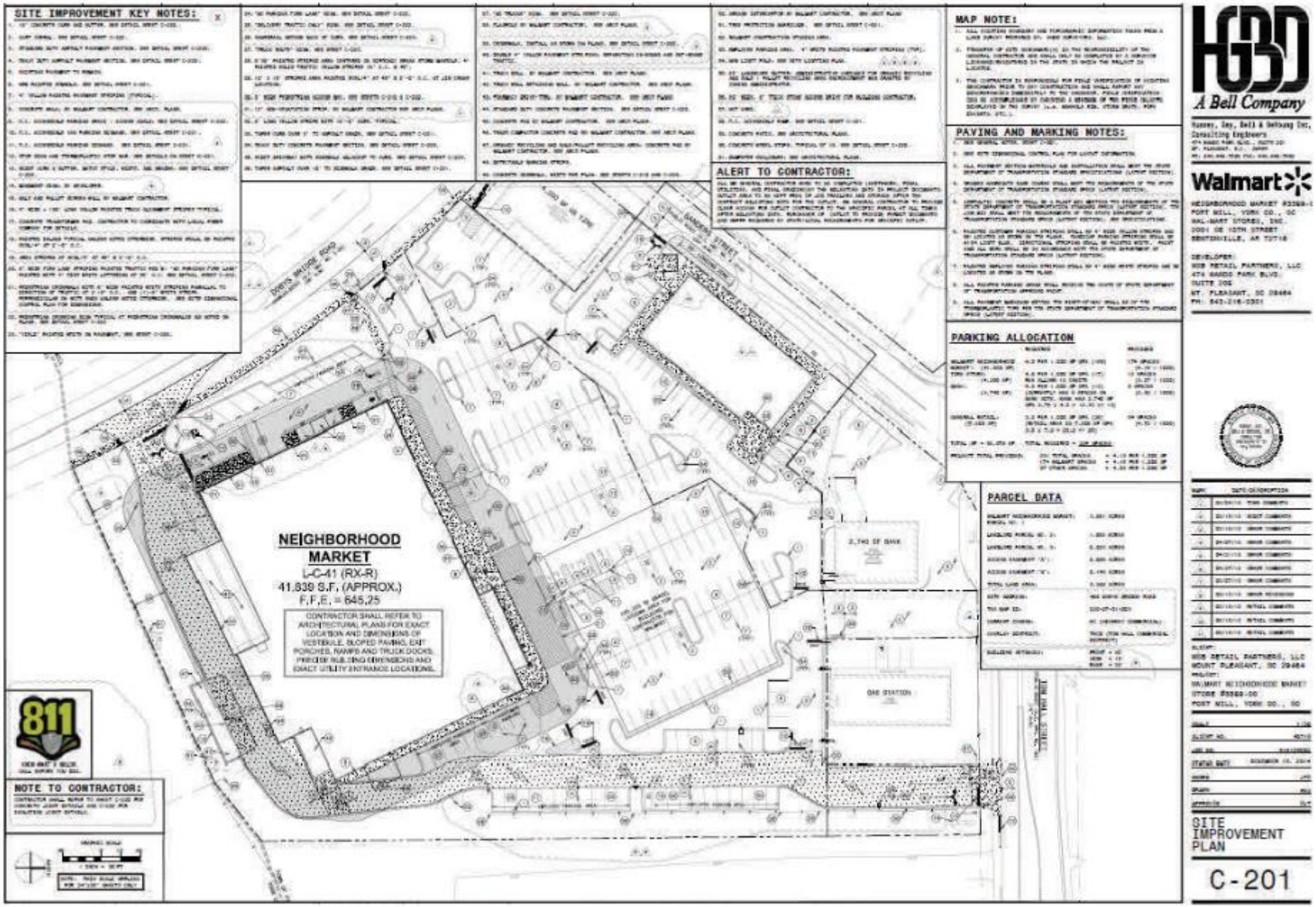
North Elevation—Approved February 2015

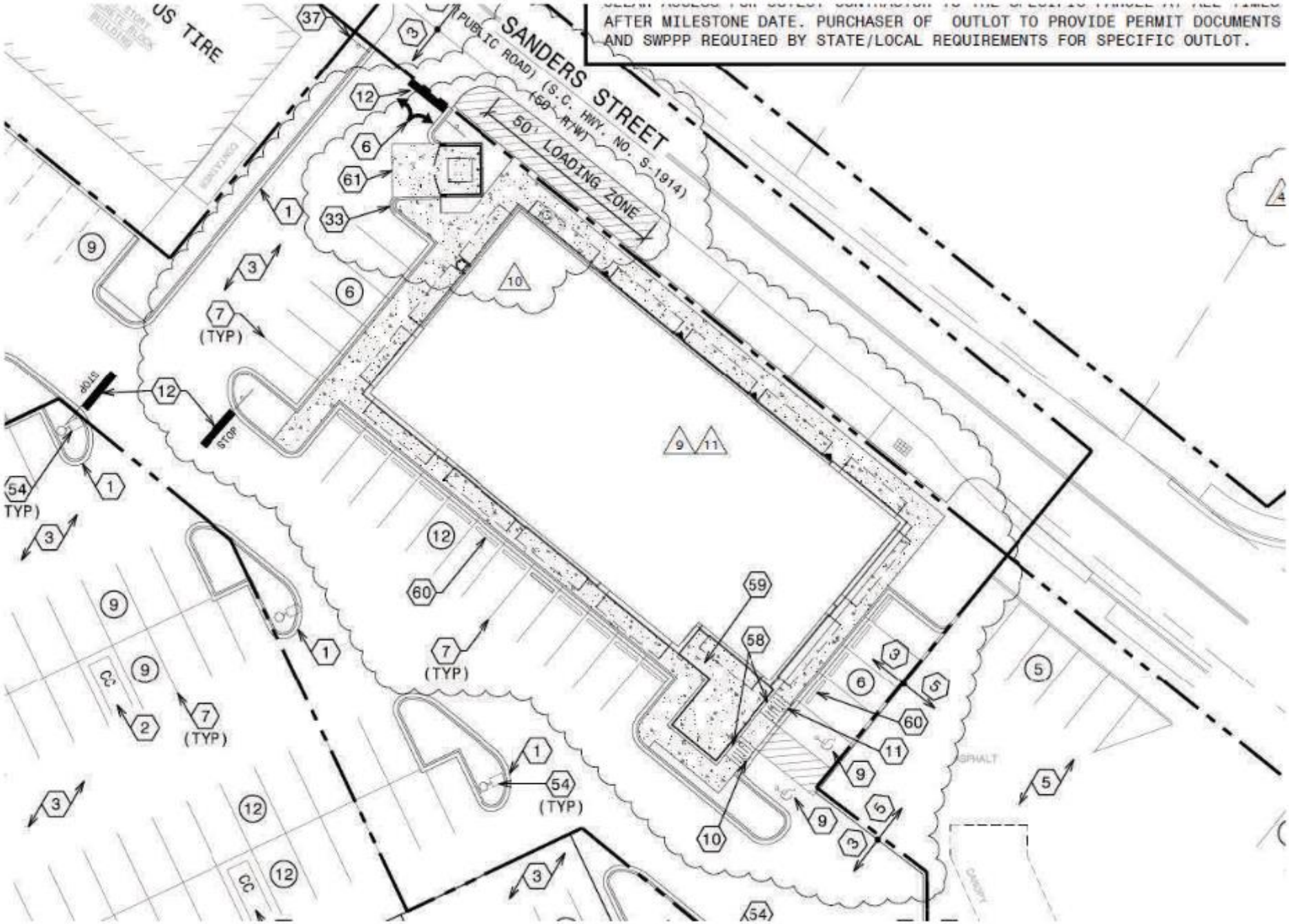
East Elevation—Renovation Submission, August 2015

East Elevation—Approved February 2015

West Elevation—Renovation Submission, August 2015

West Elevation—Approved February 2015


SITE IMPROVEMENT KEY NOTES:
MAP NOTE:
PAVING AND MARKING NOTES:
ALERT TO CONTRACTOR:
PARKING ALLOCATION
PARCEL DATA
NEIGHBORHOOD MARKET
L-C-41 (RX-R)
41,839 S.F. (APPROX.)
F.F.E. = 645.25
CONTRACTOR SHALL REFER TO ARCHITECTURAL PLANS FOR EXACT LOCATION AND DIMENSIONS OF VESTIBULE, SLOPED PAVING, EXIT PORCHES, RAMPS AND TRUCK DOCKS. PRECISE BUILDING DIMENSIONS AND EXACT UTILITY ENTRANCE LOCATIONS.
2,740 SF BANK
GAS STATION
DAVIS BRIDGE ROAD
DANCING STREET
811
NOTE TO CONTRACTOR:
HGBD
A Bell Company
Walmart
SITE IMPROVEMENT PLAN
C-201


AFTER MILESTONE DATE. PURCHASER OF OUTLOT TO PROVIDE PERMIT DOCUMENTS
AND SWPPP REQUIRED BY STATE/LOCAL REQUIREMENTS FOR SPECIFIC OUTLOT.
US TIRE
SANDERS STREET
PUBLIC ROAD) (S.C. HWY. NO. S-1914)
50' LOADING ZONE
STOP
STOP
(TYP)
(TYP)
(TYP)
(TYP)
(TYP)
ASPHALT

Planning Commission Meeting
August 25, 2015
New Business Item

Commercial Appearance Review: Sleep Inn
Request from Diversified Enterprises, Inc. to grant commercial appearance review approval for a proposed Sleep Inn hotel located at the corner of Sutton Road and the I-77 northbound exit 83 ramp.

Background / Discussion

The Planning Commission is asked to consider a request from Diversified Enterprises, Inc. to grant commercial development appearance review approval for a proposed Sleep Inn hotel at the corner of Sutton Road and the I-77 northbound exit 83 ramp. A map and site plan are attached for reference.

The property (Tax Map # 661-00-00-015) was annexed on July 27, 2015 with a Highway Commercial (HC) zoning classification, wherein hotels are a permitted use. The property is also subject to the requirements of the COD-N Corridor Overlay (Node) district.

The applicant first brought the application to the Planning Commission for appearance review on July 28, 2015, at which time the Planning Commission recommended that the applicant work with staff to address several items out of conformance with the overlay zone as well as recommended the applicant revise the building elevations to better meet the intent of the overlay zone.

A revised set of building elevations, site plan, lighting plan and landscaping plan is attached for review. Large copies of the building elevations, site plan, and landscape plan will be available during the meeting.

The revised exterior of the four-story hotel will primarily feature EIFS (multiple colors) with a brick first story, brick entrance façade (up to the third/fourth floor) and porte cochere. The revision has additionally added some enhanced architectural elements along the roofline of the building.

The landscape plan includes a mixture of shade trees within the parking lot, surrounding the building, and along the road frontages. Hollies were included as screening for the property and for a proposed dumpster enclosure.

Recommendation

The property is zoned HC and is, therefore, properly zoned for a hotel and restaurant. The COD-N overlay also allows hotels and restaurant uses.

The following paragraphs detail staff's review of the site plan's and elevation's compliance with COD-N requirements. Several items noted in staff's first review have been removed with the applicant's revisions. A full copy of the overlay district's requirements will be attached, however

certain sections will be included within the text as well (highlighted in grey). Staff has highlighted key requirements but not necessarily all requirements of the COD-N overlay.

The proposed building and associated improvements meet the setback and height requirements of the COD-N overlay, provided that the retaining wall located in the eastern corner along Sutton Road shall be less than ten feet in height per COD-N setback requirements (no retaining walls over 10 feet allowed in front setback).

In regards to building placement/orientation, the COD-N overlay notes that:

> …development will be designed to bring buildings closer to the road edge to better define the public space of the streets enhanced by landscaping and pathways and create a scale that is more appropriate for a pedestrian traffic.

Additional sections of the overlay also note that buildings are to be brought up to the street, oriented toward the street, to create a pedestrian scale atmosphere. The section regarding off-street parking notes that:

> Off-street parking in the district shall be located to the side or rear of the structure(s) located nearest to the public road(s), to the extent practicable. Where parking is located between a structure and the corridor, it shall be limited to one bay of parking (i.e., two rows of parking spaces with one shared drive aisle between the rows of spaces).

As currently designed, the town's fire marshal has noted concern with the turnaround located at the front of the hotel. While the porte cochere's 13' of clearance would be sufficient for fire apparatus, the fire marshal is unclear as to whether the turnaround would provide enough room for the fire apparatus to utilize. Staff has notified the applicant of this concern and has requested further information to determine if the design is suitable.

The Planning Commission shall have the discretion to determine if the proposed building placement/orientation meets the requirements, and intent, of the COD-N overlay district requirements.

The proposed hotel structure (restaurant to be approved only as a part of the site plan, appearance review to be submitted in the future) uses primarily EIFS with brick accents. The COD-N overlay provides the following requirements for building materials and architectural design:

> Architectural features/façade treatments:
>
> 1) Materials:
>
> (a) Buildings shall be designed to use building materials such as rock, stone, brick, stucco, concrete, wood or Hardiplank.
>
> (b) No mirrored glass shall be permitted on any facades in COD-N, and mirrored glass with a reflectance no greater than 20 percent shall be permitted in COD.
>
> (c) Corrugated metal shall not be used on any facade.

2) In COD-N, variations in the rooflines and facades of adjacent buildings shall be encouraged to avoid monotony.

3) In COD-N, any nonresidential façade facing the corridor or any other street shall be articulated with architectural features and treatments, such as windows, awnings, scoring, trim, and changes in materials (i.e., stone "water table" base with stucco above), to enhance the quality of pedestrian environment of the public street, particularly in the absence of a primary entrance.

The Planning Commission shall have the discretion to determine whether the proposed design and materials best meets the requirements, and intent, of the COD-N overlay district. Staff will note that the materials/colors used for the proposed retaining walls will need to be approved through the commercial appearance review process as well.

The applicant has supplied a landscape plan showing shade trees along the corridor and within the parking lot as well as hollies to screen the property and a proposed dumpster enclosure. The landscaping, as proposed, meets the requirements of the COD-N overlay district and all other landscaping related requirements of the zoning ordinance.

A lighting plan has been provided with the revised submission showing lighting internal to the site, which meets the 28' lighting height requirements of the zoning ordinance. The COD-N overlay additionally notes that lighting shall be installed within the streetscape zone (the first 15 feet of the setback closest to the corridor) in accordance with a master plan for the corridor, if it exists. The purpose of the lighting would be to provide a safe pedestrian realm. The town hasn't adopted a master lighting plan for the corridor, so a discussion will need to occur to set the tone for this area of the corridor. The applicant's lighting plan, as submitted, does not include lighting for the streetscape zone.

The applicant has provided pathways internal to the site, however staff would note that crosswalks in parking areas shall be distinguished from asphalt surfaces "through the use of durable, low maintenance, surface materials such as pavers, bricks, or scored, stamped or colored concrete". A discussion with the applicant noted that the plan is to utilize colored asphalt to distinguish the walkways, however this is not noted on the plan. The applicant's intended color for the asphalt was not noted.

Additionally, in regards to pathways, staff will note that the code requires at least an 8' pathway adjacent to the building façade to promote internal pedestrian circulate. The current plan includes a 6' pathway. The Planning Commission, at their discretion, would need to approve this deviation using the procedure noted in Subsection 17 "Alternative means of compliance" within the COD-N overlay code.

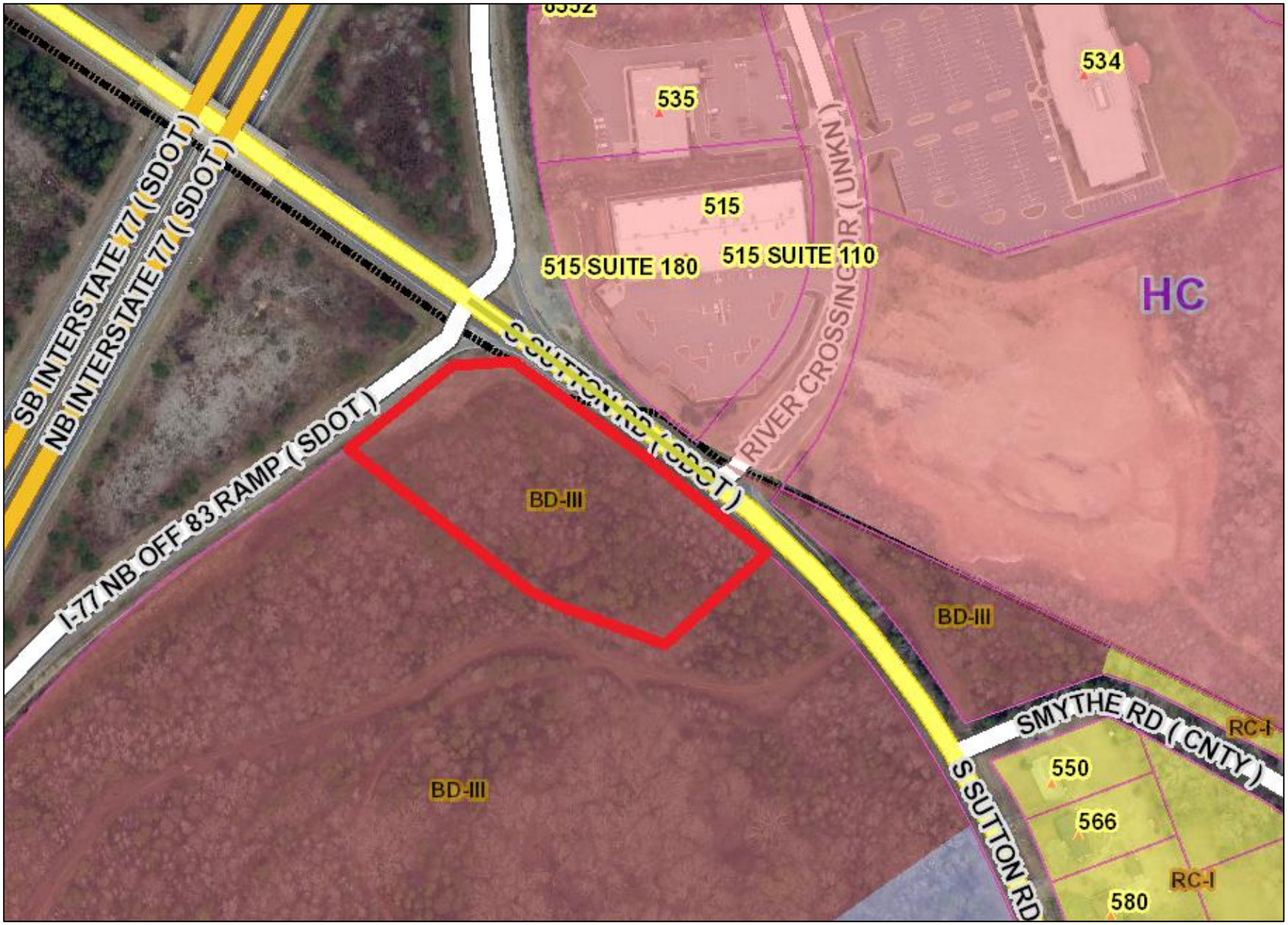
In relation to driveways, the COD-N overlay code notes that internal stub-outs and/or access easements are to be provided where feasible. Staff will note that the current plan does not show any access easements or stub-outs (any potential areas are blocked by retaining walls). The Planning Commission can waive this requirement at their discretion where "unusual topography or site conditions would render such an easement of no benefit to adjoining properties".

As a final note, staff has included the purpose of the COD/COD-N overlay district:

> *Purpose.* The corridor overlay district is established for the purpose of maintaining a safe, efficient, functional and attractive roadway corridor for the Fort Mill Southern Bypass (the "Bypass") and surrounding areas. It is recognized that, in areas of high visibility, the protection of features that contribute to the character of the area and enhancements to development quality promote economic development and stability in the entire community.

Staff does acknowledge that this is the first application of the new COD-N overlay requirements. Should the Planning Commission feel as though strict interpretation and application of the requirements creates a hardship, the code does provide a procedure for "alternative means of compliance."

Chris Pettit, AICP
Assistant Planner
August 21, 2015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S SUTTON RD (SDOT)
RIVER CROSSING DR (UNKN)
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515 SUITE 180
515 SUITE 110
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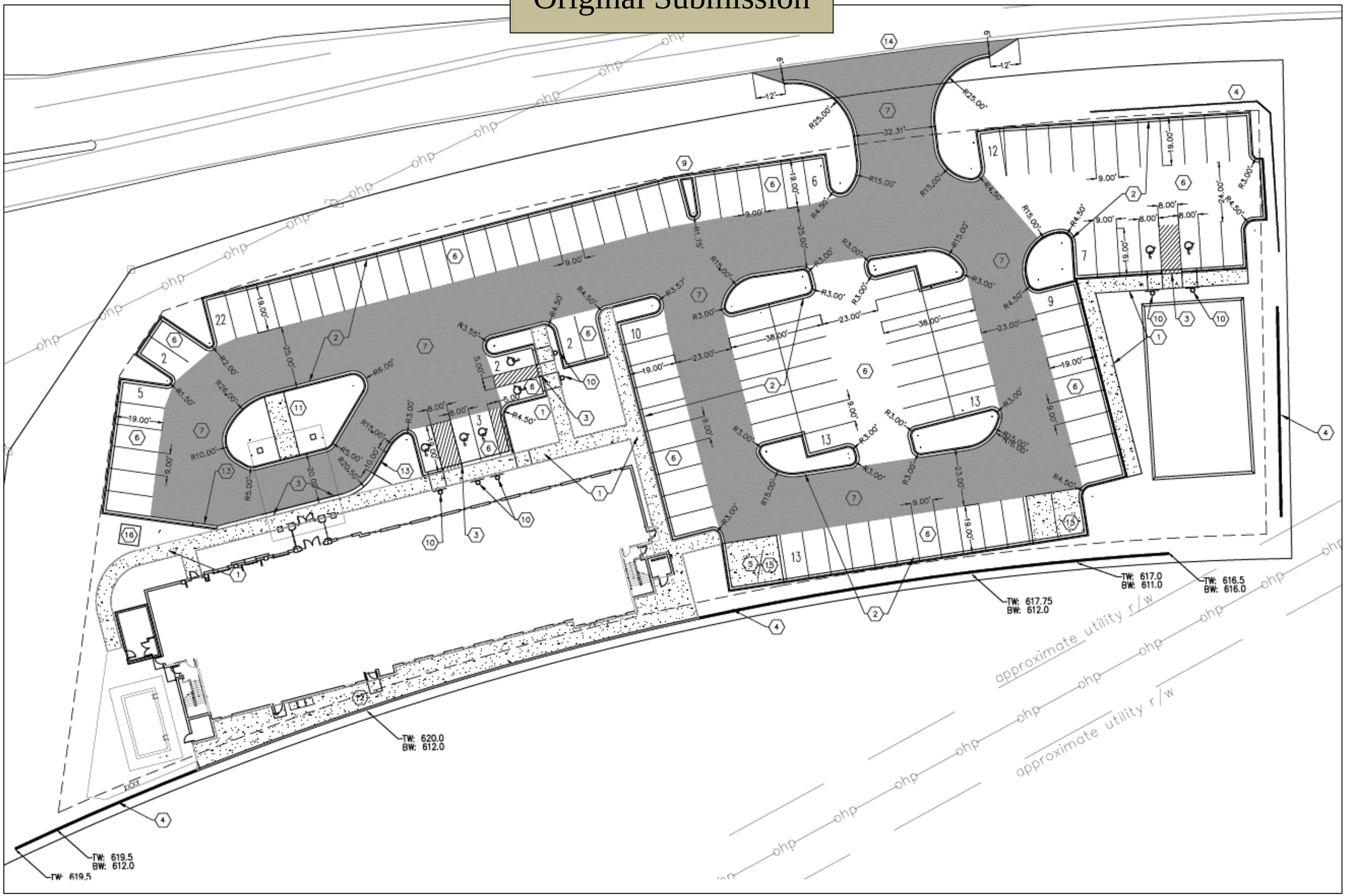
RC-I

Original Submission

Original Submission



Revised Submission

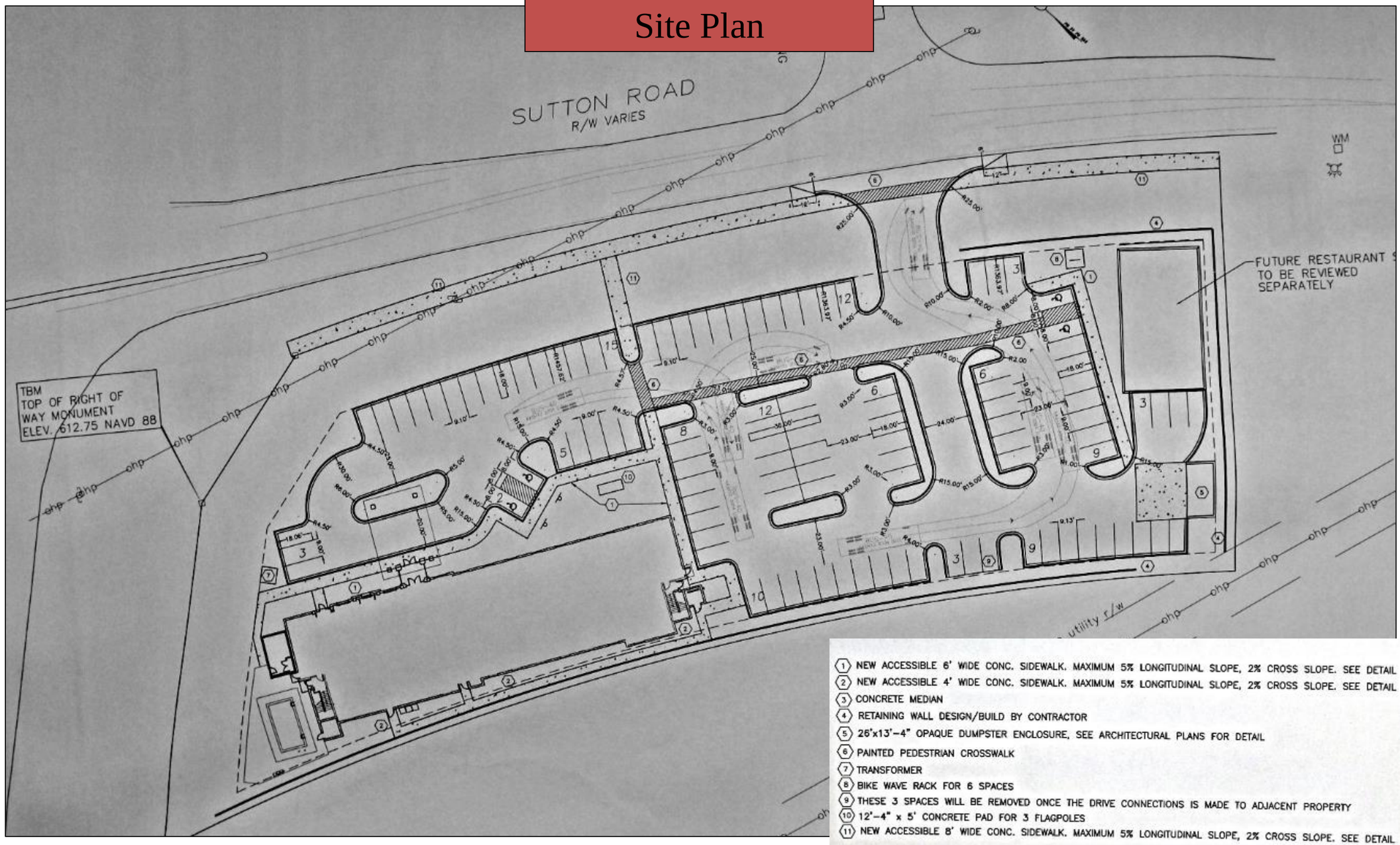
rth Elevation $\frac{1}{8}$"=1'-0"

Revised Submission

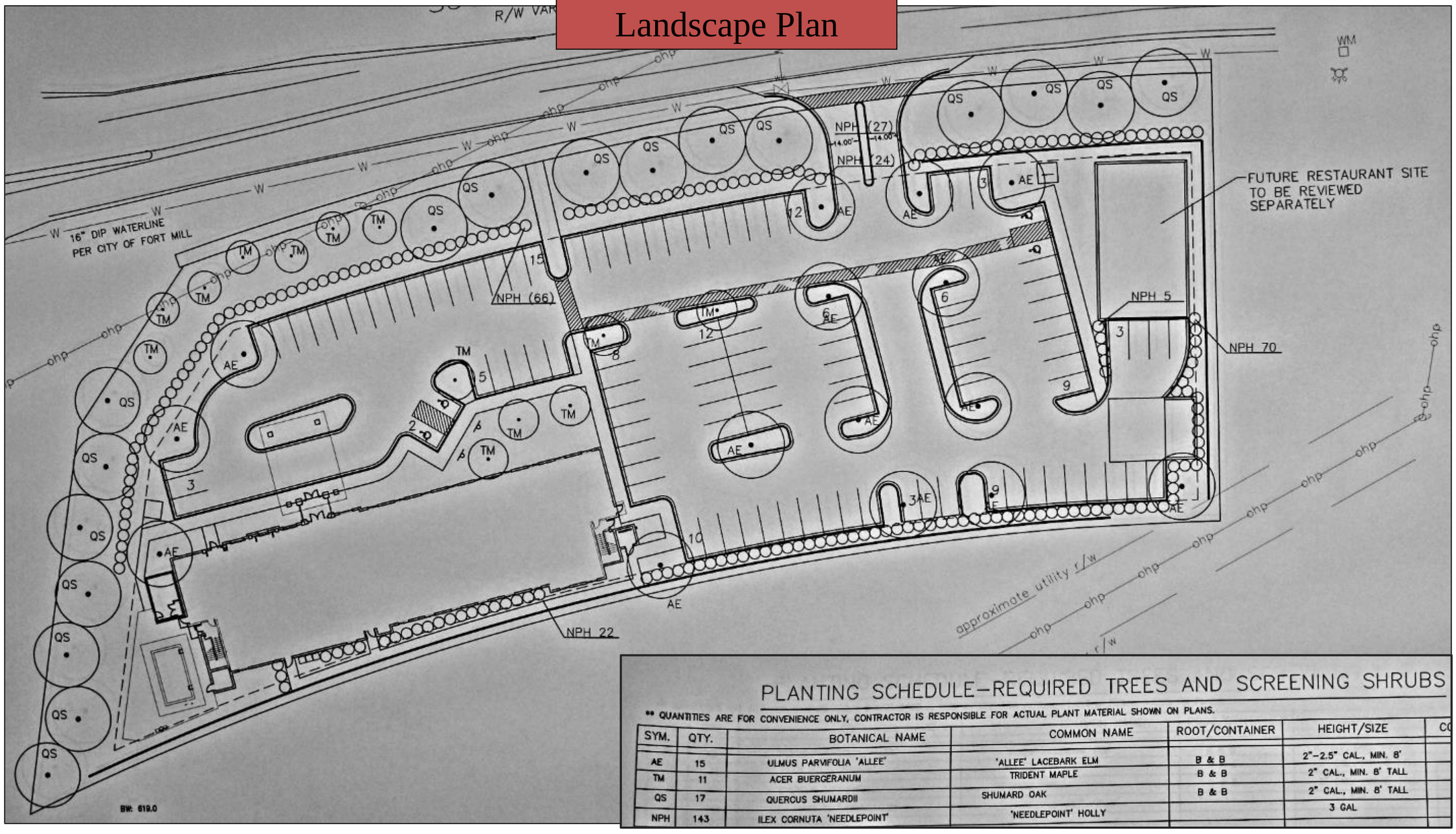
West Elevation ⅛"=1'-0"

Revised Submission

Revised Submission Site Plan



Revised Submission Landscape Plan



PLANTING SCHEDULE–REQUIRED TREES AND SCREENING SHRUBS

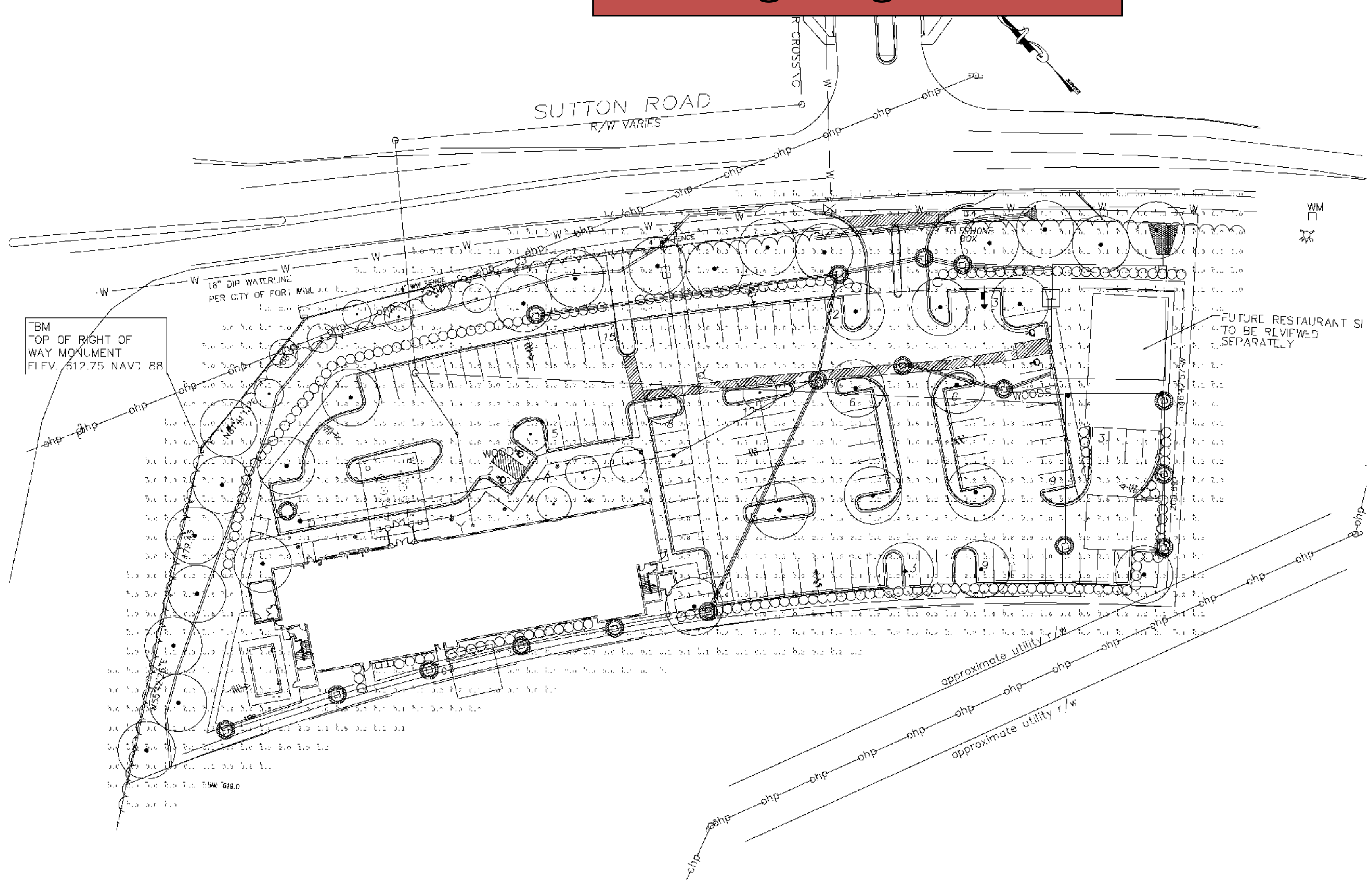
** QUANTITIES ARE FOR CONVENIENCE ONLY, CONTRACTOR IS RESPONSIBLE FOR ACTUAL PLANT MATERIAL SHOWN ON PLANS.

SYM.	QTY.	BOTANICAL NAME	COMMON NAME	ROOT/CONTAINER	HEIGHT/SIZE	C
AE	15	ULMUS PARVIFOLIA 'ALLEE'	'ALLEE' LACEBARK ELM	B & B	2"–2.5" CAL., MIN. 8'	
TM	11	ACER BUERGERANUM	TRIDENT MAPLE	B & B	2" CAL., MIN. 8' TALL	
QS	17	QUERCUS SHUMARDII	SHUMARD OAK	B & B	2" CAL., MIN. 8' TALL	
NPH	143	ILEX CORNUTA 'NEEDLEPOINT'	'NEEDLEPOINT' HOLLY		3 GAL	

Revised Submission Lighting Plan

REVISIONS

Rev #	Date	By:
1	8/21/15	J.P.



Label	Units	Avg	Max	Min	Avg/Min	Max/Min	[illegible]	[illegible]
ENTRANCE	Fc	13.03	13.5	8.7	1.50	2.13	10	10
PARKING	Fc	2.23	24.5	0.2	11.15	122.50		
WALKWAYS	Fc	2.29	13.5	0.3	7.63	61.67		
[illegible]	Fc	[illegible]	[illegible]	2.9	4.48	[illegible]		

Luminaire Schedule

WLS10839 [illegible] FORT MILL, SC PM: DEAN PLEASE EMAIL US FOR PRICING AT WLS@WLSLIGHTING.COM

Symbol	Qty	Label	Lumens	LLF	Description
[illegible]	2	A	N.A.	[illegible]	[illegible] 24' POLE 3' BASE
[illegible]	8	B	N.A.	0.970	WLS [illegible] 24' POLE 3' BASE
[illegible]	8	C	5800	0.750	WLS [illegible] 15' MOUNTING HEIGHT
[illegible]	6	D	3400	0.750	WLS-ABR-1L-50-MH (Coated Lamp) 42'' MOUNTING HEIGHT

Based on the information provided, all dimensions and luminaire locations shown represent recommended positions. The engineer and/or architect must determine applicability of the layout to existing or future field conditions.

This lighting pattern represents illumination levels calculated from laboratory data taken under controlled conditions utilizing current industry standard lamp ratings in accordance with Illuminating Engineering Society approved methods. Actual performance of any manufacturer's luminaire may vary due to variation in electrical voltage, tolerance in lamps and other variable field conditions.

WLS LIGHTING SYSTEMS
Consider the Impact!

1919 WINDSOR PLACE
FORT WORTH, TX 76110
WWW.WLSLIGHTING.COM

800-633-8711

SCALE: 1"=30'
PM: DEAN
BY: J.P.
SHEET 1 OF 1

Commercial Appearance Review Criteria

1) *Relationship of building site:*
   A) The proposed commercial development shall be designed and sited to accomplish a desirable view as observed from adjacent streets.
   B) Parking areas shall be enhanced with decorative elements, building wall extensions, plantings, berms, or other innovative means to screen parking areas from view from the streets.
   C) Utility services shall be underground.
2) *Relationship to adjoining areas:*
   A) Adjacent buildings of different architectural styles shall be made compatible by use of screens, sight breaks, materials, and other methods.
   B) Landscaping shall provide a transition to adjoining property.
   C) Texture, building lines, and mass shall be harmonious with adjoining property. Monotonous texture, lines, and mass shall be avoided.
3) *Landscaping:* Landscaping shall conform to article IV and other sections of this ordinance.
4) *Building design:*
   A) Architectural style is not restricted. Quality of design and compatibility with surrounding uses shall provide the basis of the evaluation of the appearance of a proposed commercial development.
   B) Materials shall be of good architectural character and shall be harmonious with adjoining buildings.
   C) Materials shall be suitable for the type and design of the building. Materials which are architecturally harmonious shall be used for all exterior building walls and other exterior building components.
   D) Materials and finishes shall be of durable quality.
   E) Building components, such as windows, doors, eaves, and parapets, shall have appropriate proportion and relationships to one another.
   F) Colors shall be harmonious and shall use compatible accents.
   G) Mechanical equipment or other utility hardware on roof, ground, or buildings shall be screened from view with materials harmonious with the building.
   H) Monotony of design shall be avoided. Variation in vegetation, detail, form, and siting shall be used to provide visual interest.
5) *Signs:*
   A) Signs shall conform to the provisions of article III and this article.
   B) Every sign shall be of appropriate scale and proportion in relation to the surrounding buildings.
   C) Every sign shall be designed as an integral architectural element of the building and site to which it relates.
   D) The colors, materials, and lighting of every sign shall be harmonious with the building and site to which it relates.
   E) The number of graphic elements on a sign shall be held to the minimum needed to convey the sign's principal message and shall be in proportion to the area of the sign.
   F) Each sign shall be compatible with signs on adjoining plots or buildings.
   G) Corporation logos shall conform to the criteria for all other signs.
6) *Miscellaneous structures:* Miscellaneous structures and hardware shall be part of the architectural concept of the project. Materials, scale, and colors shall be compatible with the building and surrounding uses.

Sec. 24. - COD/COD-N Corridor overlay district.

1. *Purpose.* The corridor overlay district is established for the purpose of maintaining a safe, efficient, functional and attractive roadway corridor for the Fort Mill Southern Bypass (the "Bypass") and surrounding areas. It is recognized that, in areas of high visibility, the protection of features that contribute to the character of the area and enhancements to development quality promote economic development and stability in the entire community.

2. *Applicability.*

   A) All land within 500 feet of the outer edge of the right-of-way of the bypass corridor (the "Corridor"), as defined herein, shall be subject to the standards and regulations of the COD/COD-N corridor overlay district, unless specifically excluded herein. Where part of a parcel is within 500 feet of the right-of-way of the corridor, only that portion of the parcel shall be subject to these regulations.

   B) COD-N refers to subareas of the land that lie within the corridor overlay district. This designation is intended for COD parcels or portions of parcels that lie within the areas identified as activity nodes in the adopted Fort Mill Comprehensive Plan and are envisioned to be more urban in nature. Consistent with the characteristics of urbanized areas, these areas are more likely to accommodate a variety of uses in a walkable environment. Therefore, development will be designed to bring buildings closer to the road edge to better define the public space of the streets enhanced by landscaping and pathways and create a scale that is more appropriate for a pedestrian traffic. These subareas are subject to standards specified herein that are in addition to or serve as alternatives to the standards of the corridor overlay district.

   C) A corridor overlay district map, prepared by land design and dated November 21, 2013, is hereby adopted and incorporated into this section by reference. The boundaries of the COD and COD-N shall be as illustrated in the above referenced map, and a copy of which shall be maintained on file with the zoning administrator and town clerk.

   D) The COD and COD-N shall be incorporated into the Official Zoning Map for the Town of Fort Mill.

   E) The requirements of the COD and COD-N shall apply only to parcels located within the corporate limits of the Town of Fort Mill. Any unincorporated parcels within the boundaries of the COD and COD-N at the effective date of this ordinance [February 24, 2014] shall become subject to the requirements of this section only upon the annexation of such parcels into the Town of Fort Mill.

   F) The standards established in this section shall be applied to any of the following types of new development to be located within the corridor overlay district which are submitted and approved after the effective date of this section:

      1) All nonresidential development, including civic and institutional uses, such as schools, churches and community facilities;

      2) Multifamily residential; and

      3) Single-family residential, with the following exceptions:

         (a) Single-family residential development shall be subject only to the following standards:

            1. The minimum setback requirements under dimensional requirements,

            2. The orientation requirements under building design,

            3. The applicable requirements under screening, and

            4. The applicable requirements under driveways on corridor.

         (b) In new single-family residential subdivisions, the standards pertaining to streetscape and pedestrian pathways shall also apply.

G) These standards shall not apply to any development that is covered by a development agreement between the town and the developer, provided such development agreement was adopted prior to the effective date of this section [February 24, 2014], prepared consistent with the provisions of Chapter 31 of the South Carolina Code of Laws and is still in force.

H) Existing development shall not be subject to these standards. However, expansions of existing nonresidential development resulting in a minimum ten percent increase in building area or lot area shall be subject to some of the standards, as indicated herein.

I) Where more than 50 percent of the footprint of a proposed building lies with the corridor overlay district, all portions of such building shall be subject to the building design standards of subsection 5.

J) Excluding building height regulations, if the requirements of the underlying zoning district are more restrictive, those requirements shall apply. Refer to subsection 4.A)2) building height under dimensional requirements.

3. *Permitted uses.*

A) All permitted, special and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each use classification, except as follows.

B) Notwithstanding the provisions of the underlying zoning district, the following uses shall be prohibited within COD/COD-N:

1) Automobile rental and sales.

2) Automotive wrecker service.

3) Bingo halls.

4) Casino or gambling establishment.

5) Check cashing establishments, title loan lenders, deferred presentment lenders, pawnshops, loan brokers, and small loan companies.

6) Communications towers. Where such towers must be permitted per the Telecommunications Act of 1996 and it has been demonstrated that no existing towers or structures (such as rooftops, water towers, etc.) can accommodate such equipment, the towers shall not exceed 100 feet in height. To the extent practicable, they shall be roof-mounted, not freestanding, structures.

7) Industrial or heavy manufacturing uses (prohibited in COD-N only).

8) Junk or salvage yards.

9) Mobile homes.

10) Sexually-oriented businesses.

11) Sweepstakes cafes.

12) Tattoo facilities.

4. *Dimensional requirements.*

A) The dimensional requirements shall be the same as the underlying zoning district, except as follows:

1) Building setbacks.

(a) Subject to the notes below, the building setbacks of the underlying zoning districts shall apply, except along the corridor. Building setbacks, measured from the right-of-way of the corridor, shall be as follows:

Area	Minimum Building Setback (ft)

COD-N	35′
COD	50′ or 100′ (landscaped buffer requirements vary)

(b) Notes pertaining to building setbacks:

1. The minimum setback in COD shall be reduced in cases where the setback area exceeds 40 percent of the acreage of a parcel already in existence on the effective date of this section. The width of the setback area shall be reduced to the extent necessary (up to a 15-foot reduction) in order that the buffer shall not exceed 40 percent of the parcel. No setback shall be less than 35 feet.

(c) There shall be no development allowed in the setback from the corridor right-of-way, except as follows:

1. Drainage features designed to mimic the natural environment;
2. Driveways;
3. Landscaping;
4. Lighting;
5. Parks and park-like amenities (not including athletic fields or facilities);
6. Public utilities (limited to lines and other equipment);
7. Retaining wall(s) up to ten feet in height (refer to subsection 16);
8. Pathways, pedestrian ways, or bikeways;
9. Signs, subject to subsection 13; and
10. Streetscape elements.

2) Building height:

(a) Subject to the notes below, the minimum and maximum building heights shall be as follows:

Area	Minimum Building Height (ft)	Maximum Building Height (ft)
COD-N	20'	45', unless underlying zoning maximum is higher
COD	NA	Consistent with underlying zoning

(b) Notes pertaining to building heights:

1. Maximum and minimum building heights shall be measured as set forth in the definitions for "height of building, maximum," and "height of building, minimum."
2. Buildings less than 2,500 square feet shall not be subject to the minimum height requirements; however, some portion of the structure's roofline shall be articulated in a manner that achieves the minimum height.
3. Height may be above the maximum height indicated, provided all portions of the structure exceeding the height limit indicated shall be stepped back an additional one foot from the adjoining property line for each additional foot in excess.

4. If the maximum building height of the underlying zoning of a parcel in COD-N is less than 45 feet, then 45 feet shall be the maximum height.

5. *Building design.*

A) All buildings in the corridor overlay district shall comply with the requirements below. In addition, all nonresidential development shall be subject to the requirements of article V, commercial development appearance review, as well as the commercial appearance review process.

B) Orientation:

1) Except as provided below for COD-N, the rear facades of buildings shall not be visible from the corridor. Such facades shall be oriented away from view from the corridor or shall be screened by landscaped buffers that meet or exceed the requirements for landscaped buffers in subsection 7.

2) In COD-N, buildings shall be oriented toward the public street(s).

(a) Pedestrian access from the street is encouraged for all multi-family residential and nonresidential uses. Therefore, primary entrances shall be visible and accessible from the public street, where feasible. Where parking is provided at the rear of the building, the primary entrance may be located to provide access from such parking. Two primary entrances, one from the street and one from the rear parking area, are permitted.

(b) Loading areas of buildings shall not be visible from the corridor. Such loading areas shall be oriented away from view from the corridor or shall be screened per the requirements in subsection 8.

C) Architectural features/façade treatments:

1) Materials:

(a) Buildings shall be designed to use building materials such as rock, stone, brick, stucco, concrete, wood or Hardiplank.

(b) No mirrored glass shall be permitted on any facades in COD-N, and mirrored glass with a reflectance no greater than 20 percent shall be permitted in COD.

(c) Corrugated metal shall not be used on any facade.

2) In COD-N, variations in the rooflines and facades of adjacent buildings shall be encouraged to avoid monotony.

3) In COD-N, any nonresidential façade facing the corridor or any other street shall be articulated with architectural features and treatments, such as windows, awnings, scoring, trim, and changes in materials (i.e., stone "water table" base with stucco above), to enhance the quality of pedestrian environment of the public street, particularly in the absence of a primary entrance.

6. *Streetscape.*

A) All trees planted in accordance with the requirements of this section shall be trees that are approved by the town, per the approved tree species list provided in section 38-71 of the Code of Ordinances.

1) COD-N:

(a) Street trees shall consist of canopy trees planted within the streetscape zone (the first 15 feet of the setback closest to the corridor) at rate of one tree per 50 linear feet along all corridor frontages. Tree spacing shall be not more than 60 feet and not less than 40 feet on center. At planting, street trees shall be a minimum of two inches in caliper (measured four feet above ground level) or eight feet in height. Such tree placement shall comply with SCDOT safety requirements. Significant trees protected in

accordance with section 3 of the landscaping standards of article IV may be counted to satisfy this tree planting requirement.

(b) All new development or expansions of existing development resulting in a minimum ten percent increase in building area or lot area shall provide landscaping within the setback in accordance with this subsection. For purposes of this subsection, the planting area shall be determined by multiplying the lot frontage, less driveways, times the minimum required setback width to determine required planting area.

1. Trees:

a. For every 2,500 square feet of planting area, a minimum of two trees shall be planted.

b. At least 50 percent of the trees planted to meet this requirement shall be canopy trees. At planting, required trees shall be a minimum of two inches in caliper (measured four feet above ground level), and shall have a mature height of at least 35 feet.

c. Street trees planted in this area shall be counted toward the minimum tree planting requirements.

d. Significant trees protected in accordance with section 3 of the landscaping standards of article IV may be counted to satisfy this tree planting requirement.

2. Shrubs:

a. For every 2,500 square feet of planting area, a minimum of ten shrubs shall be planted.

b. At least 50 percent of the shrubs planted shall be evergreen.

2) COD:

(a) Existing significant trees within 50 feet of the right-of-way of the corridor shall be protected in accordance with section 3 of the landscaping standards of article IV.

(b) If the 50-[foot] setback minimum setback is utilized, a landscaped buffer shall be provided within the setback in accordance with the landscaped buffer requirements in subsection 7 for 50-foot buffers. Tree placement shall comply with SCDOT safety requirements. Significant trees protected in accordance with Section 3 of the landscaping standards of article IV may be counted to satisfy the tree planting requirement.

(c) If the 100-foot minimum setback is utilized, landscaping a landscaped buffer shall be provided within the setback in accordance with the landscaped buffer requirements in subsection 7 for 20-foot buffers. Tree placement shall comply with SCDOT safety requirements. Significant trees protected in accordance with section 3 of the landscaping standards of article IV may be counted to satisfy the tree planting requirement.

(d) Street trees shall not be required along corridor frontages outside of COD-N. However, if such trees are provided, street trees shall be located only in areas where there is no existing vegetation to be preserved. Canopy trees may be combined with understory trees and may be uniformly spaced or clustered. However, canopy trees shall not be less than 40 feet on center. Such tree placement shall comply with SCDOT safety requirements.

7. *Buffers.*

A) Any required landscaped buffers shall meet the following requirements:

1) A landscaped buffer shall be a natural, undisturbed wooded area where possible, provided it meets the intent of this buffer requirement. Where existing natural, undisturbed vegetation does not exist or is not sufficient to achieve intended separation and screening of uses, a planted buffer shall be provided.

2) A planted landscaped buffer shall meet or exceed the following standards:

Lot size	Min. buffer width, measured from the property boundary (or right-of-way)	Min. landscaping to be provided within the required buffer per 100 linear feet	Min. buffer width if min. 6′ opaque fence or wall is installed	Min. landscaping if min. 6′ opaque fence or wall is installed
Lots under 5 acres	20′	three (3) canopy trees six (6) understory trees nine (9) shrubs	15′	two (2) canopy trees four (4) understory trees six (6) shrubs
Lots 5—10 acres	35′	five (5) canopy trees ten (10) understory trees fifteen (15) shrubs	25′	four (4) canopy trees eight (8) understory trees twelve (12) shrubs
Lots over 10 acres	50′	five (5) canopy trees ten (10) understory trees twenty (20) shrubs	35′	four (4) canopy trees eight (8) understory trees sixteen (16) shrubs

3) Significant trees protected in accordance with section 3 of the landscaping standards of article IV may be counted to satisfy the tree planting requirement.

4) Trees planted to satisfy a landscaped buffer requirement shall be a minimum of two inches in caliper (measured four feet above ground level) or eight feet in height.

8. *Screening.*

A) Screening shall be provided in accordance with the following:

1) Multifamily and nonresidential development shall be screened as follows:

(a) Notwithstanding the dimensional requirement of section 2 of article IV, which requires nonresidential vehicular areas shall be set back at least 25 feet from any property line abutting land used for residential purposes or located in a residential zone, landscaped buffers per subsection 7. shall be used to screen multifamily and nonresidential uses from existing one-family residential uses or approved one-family residential subdivision lots, except where one-family uses are integrated with other uses in accordance with an approved PND or MXU zoning district. This requirement applies to new development as well as expansions of existing development resulting in a minimum ten percent increase in building area or lot area. Such buffers shall only be required along property boundaries abutting single-family residential uses or lots.

(b) All required trees and shrubs planted to meet this requirement shall be evergreen.

(c) Required landscaped buffers shall be located entirely on the parcel of the developing multi-family or nonresidential use; the width of the required buffer shall be measured from the property boundary of the parcel that is being developed where it adjoins the

parcels of existing single-family residential uses or approved single-family residential subdivision lots.

B) All loading areas and service areas shall be screened from view from the corridor in accordance with section 5 of article IV.

C) All rear facades of single family residential buildings visible from the corridor shall be screened from view from the corridor with a landscaped buffer.

D) All off-street parking areas of multi-family and nonresidential development shall be screened from view from the corridor with a minimum of one row of evergreen shrubs. Such shrubs shall be planted not more than five feet on center and shall be at least three feet in height at time of planting. This requirement applies to new development as well as expansions of existing development resulting in a minimum ten percent increase in building area or lot area. Such shrubs may be counted toward any setback landscaping requirements for parcels in COD-N.

9. *Lighting standards.* Lighting shall be installed within the streetscape zone (the first 15 feet of the setback closest to the corridor) along the corridor in COD-N in accordance with the fixture spacing, height, color and type requirements specified in the lighting plan (or streetscape plan that includes a lighting plan) adopted by the town for that COD-N segment of the corridor, if such plan exists. Fixtures shall be installed to provide adequate lighting of pedestrian pathways. All other lighting standards of section 6 of article IV shall apply.

10. *Pedestrian pathways.*

A) Pedestrian pathways shall be provided in the COD district in accordance with the following requirements:

1) Pedestrian pathways at least eight feet in width shall be provided along all sides of lots that abut public roads. Pedestrian pathways may be parallel to such roads or meandering to allow for street trees between the pathways and the road, to avoid existing vegetation to be preserved, and to address topographic issues.

2) Continuous pedestrian pathways, not less than eight feet in width, shall be provided from the pedestrian pathways along public roads to the principal customer entrance of nonresidential establishments and the primary entrance of multi-family buildings. At a minimum, pedestrian pathways shall connect areas of pedestrian activity such as, but not limited to, road crossings, parking areas, and building entry points.

3) No pedestrian pathway shall be closer than eight feet to the back of curb or edge of pavement of a public road, except at designated crosswalk locations. All pedestrian pathways constructed in accordance with the above provisions shall be constructed by the developer. Maintenance shall be the responsibility of the property owner unless the town or SCDOT has accepted maintenance responsibilities in conjunction with the dedication by the developer or property owner of a right-of-way or an easement encompassing the pathway. All pedestrian pathways shall be constructed of concrete, concrete pavers, brick or a combination of such materials in accordance with the sidewalk standards of SCDOT's Standard Specifications for Highway Construction (and applicable town standards), and shall meet ADA requirements.

4) With town approval, the developer may pay fees in lieu of constructing a required pedestrian pathway. This alternative means of providing a pathway shall be considered when the timing of development warrants a delay in pathway construction (i.e., planned off-site construction would result in the demolition of a newly constructed sidewalk, a pedestrian connection between two adjoining parcels requires a pedestrian bridge, or the construction of a pedestrian pathway requires coordination with a county or SCDOT construction project).

B) Pedestrian pathways in the COD-N shall be subject to the following additional requirements:

1) Pedestrian pathways at least eight feet in width shall be provided along the corridor within 15 feet of the right-of-way and all sides of lots that abut public roads. Pedestrian pathways

may be parallel to such roads or meandering to allow for street trees between the pathways and the road, to allow existing vegetation to be preserved, or to address topographic issues.

2) No pedestrian pathway shall be closer than eight feet to the back of curb or edge of pavement of a public road, except at designated crosswalk locations. However, pavement between the pedestrian pathway and the back of curb shall be permitted as an alternative to a planting strip, provided street trees in this area are installed using tree grates.

3) All pedestrian pathways constructed along the corridor shall extend to the side property lines so that such pathways can be continued on the adjoining parcels in physically feasible locations as development occurs.

4) If a pedestrian pathway has been constructed along the corridor on an adjoining property, and such pathway has been terminated at the common property line, the developing parcel shall construct a pedestrian pathway along the corridor in a manner that connects it to the existing pathway, thereby creating a continuous pedestrian pathway along the corridor.

5) To facilitate internal pedestrian circulation in multi-family and nonresidential developments, pathways no less than eight feet in width shall be provided along any nonresidential facade featuring a customer entrance, and along any facade abutting public parking areas. Additional pathway width shall be provided as needed in non-residential development to accommodate outdoor seating areas adjacent to restaurants to maintain an eight-foot wide clear pedestrian circulation area.

6) Internal pedestrian pathways constructed in multi-family and nonresidential developments shall extend to the property lines in a manner that:

   (a) Connects to the existing pedestrian pathways on an adjoining developed parcel where such existing pathways have been stubbed out at the common property line; or

   (b) Facilitates the future continuation of such internal pathways into adjoining parcels in physically feasible locations as development on adjoining parcels occurs.

7) Pedestrian pathways and crosswalks in parking areas shall be distinguished from asphalt driving surfaces through the use of durable, low-maintenance, surface materials such as pavers, bricks, or scored, stamped or colored concrete to enhance pedestrian safety and comfort as well as the attractiveness of the pathways.

11. *Driveways on corridor.*

A) All driveways and public road intersections shall be subject to the standards and permitting processes of SCDOT.

B) Any parcel of land with frontage on a corridor shall have no more than one vehicular access point (driveway) connecting to the corridor, unless a traffic analysis demonstrates to the town council the need for an additional driveway due to potentially hazardous traffic conditions, and SCDOT Department of Highways and Public Transportation agrees that an additional driveway is needed.

C) No driveway shall be allowed within 400 feet of an intersection of any other public road on the corridor.

D) Driveways shall be a minimum of 400 feet apart (measured from center line to center line) on the corridor, and shall align with opposing driveways, where possible.

E) Shared driveways, or parallel access roads (in COD only), shall be used when deemed necessary, and the appropriate legal documents may be required by the town prior to driveway permit issuance.

F) A cross access easement may be required between adjacent lots fronting on the corridor in order to minimize the total number of access points along the corridor and to facilitate traffic flow between lots. The location and dimensions of such easement shall be determined by the property owners in coordination with town staff.

G) If access to a lot or legally created parcel of land is physically unobtainable under these provisions, an access point may be approved which is located the greatest distance possible from an existing access point and in the safest possible location to be approved by SCDOT.

H) For the purpose of this section, adjacent parcels in common ownership fronting on the corridor shall be considered as one parcel when determining permitted driveways.

I) Access to adjacent nonresidential development:

1) Where feasible, driveway connections between adjacent nonresidential developments shall be provided and clearly identified. All driveway connections shall be constructed and stubbed, and future development of adjacent property shall complete a connection to any existing stub.

2) Access easements shall be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

3) The decision making body with review authority (staff or planning commission) may waive the requirement for a driveway connection required above in those cases where unusual topography or site conditions would render such an easement of no benefit to adjoining properties.

4) The decision making body with review authority (staff or planning commission) may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

12. *Parking.*

A) Off-street parking.

1) All off-street parking shall be provided in accordance with the off-street parking requirements set forth in article I, section 7.

2) Off-street parking in the district shall be located to the side or rear of the structure(s) located nearest to the public road(s), to the extent practicable. Where parking is located between a structure and the corridor, it shall be limited to one bay of parking (i.e., two rows of parking spaces with one shared drive aisle between the rows of spaces).

3) All off-street parking areas shall be screened in accordance with the screening requirements of subsection 8.

4) Landscaping in off-street parking lots shall meet the requirements of the landscaping standards of article IV.

5) All such off-street parking shall be subject to the requirements of article V, commercial development appearance review, as well as the commercial appearance review process.

6) Shared parking is allowed and is encouraged in circumstances where the parking would be within 1,200 feet of each respective use.

(a) Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the zoning administrator that clearly demonstrates the feasibility of shared parking. The study must be provided in a form established by or acceptable to the zoning administrator. It must address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

(b) A shared parking plan shall be enforced through written agreement among all owners of record and included in the development agreements filed with the town. The owner of the shared parking area shall enter into a written agreement with the town with enforcement running to the town providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to

bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns. An attested copy of the agreement between the owners of record shall be submitted to the zoning administrator for recordation in a form established by the town attorney. Recordation of the agreement must take place before issuance of a building permit or certificate of occupancy for any use to be served by the shared parking area. A shared parking agreement may be revoked only if all required off-street parking spaces will be provided on-site. The town shall void the written agreement if other off-street facilities are provided in accord with these zoning regulations.

7) In addition to off-street vehicular parking requirements, the following bicycle parking requirements shall be met for the retail, restaurant, office, service, civic, institutional and multi-family residential uses:

(a) Bicycle parking shall be provided in an amount equal to 5% of the minimum required off-street parking for vehicles, or a minimum of two spaces, whichever is greater.

(b) Such parking shall be located in close proximity to the primary entrance used by customers, visitors, or residents.

(c) Bicycle parking areas shall be designed to utilize bike racks installed on paved surfaces.

(d) Bicycle parking areas and pathways connecting them to the buildings they serve shall be lighted for the safety of the cyclists and to discourage theft.

(e) Bicycle parking shall be encouraged, though not required, if the entire development has a gross floor area of 5,000 square feet or less.

(f) Shared bicycle parking for two or more uses is permitted provided an attested copy of the agreement between the owners of record is submitted to the zoning administrator for recordation in a form established by the town attorney.

B) On-street parking.

1) No on-street parking shall be located on the corridor.

2) In COD-N, a minimum of 50 percent of the required off-street parking shall be provided on site. Where on-street parking is available or provided as part of the development, on-street parking spaces may account for up to 50 percent of the required spaces, provided:

(a) A key map is provided that delineates the location of allocated on-street spaces for a designated parcel or use.

(b) The on-street parking must be located within 1,200 feet of the primary entrance of the use it is serving.

(c) On-street parallel parking spaces shall be 7′ × 20′ measured from the face of curb (or edge of pavement, if curb does not exist).

(d) On-street diagonal parking with a 60-degree angle or less shall have a minimum travel lane width of 11 feet.

13. *Signs.*

A) Freestanding signs.

1) Freestanding identification signs for nonresidential and multi-family uses are permitted along the corridor in accordance with the following standards, which shall supersede the standards of the underlying zoning district for freestanding signs:

(a) No parcel with less than 50 feet of frontage on the corridor shall be permitted to have a freestanding sign. Wall-mounted signs shall be permitted in such instances.

(b) Parcels with 50 to 200 feet of frontage on the corridor may be permitted to have one freestanding sign.

1. Maximum height: 4 feet.
2. Maximum sign face area: 0.5 square feet per 2 linear feet of frontage, up to a maximum sign area of 30 square feet (total).
3. Minimum setback from right-of-way: 5 feet.

(c) Parcels with more than 200 feet of frontage on the corridor may be permitted to have up to two free standing signs.

1. General provisions:
   a. Maximum height: 7 feet.
   b. Maximum sign face area (total): 50 square feet.
   c. Minimum setback from ROW: 5 feet.
2. Special provisions for unified, nonresidential, multi-tenant developments:
   a. Unified development signs that identify only the development shall be permitted. Within the same maximum sign face area, individual tenants or establishments may also be identified. Separate freestanding signs identifying individual tenants or establishments shall not be permitted in conjunction with the unified development signs.
   b. Each permitted sign shall conform to standards set forth for freestanding signs except that, if the street frontage of the unified development exceeds 300 feet, such standards may be modified as follows:
      i. Maximum height: 22 feet in height above the grade of the frontage street.
      ii. Maximum sign face area: 250 square feet per side.
      iii. Minimum setback from ROW: 10 feet.
      iv. Minimum separation between signs: 350 feet.

(d) Internal lighting of signs, neon, LED, and flashing signs shall not be permitted along the corridor, except that up to 20 percent of the actual sign face may be utilized for LED display of time, temperature, or gas prices. Building floodlighting shall not be permitted, except in COD-N.

B) Pole signs.

1) Only parcels that lie wholly or in part within 150 feet of the Interstate-77 right-of-way shall be permitted to utilize pole signs, per article III, section 14. Pole signs shall be prohibited on all other parcels along the corridor not meeting this requirement.

C) Wall mounted signs.

1) Wall mounted signs shall be permitted per article III, section 16.

D) Temporary signs.

1) The provisions of this subsection shall not apply to temporary signs permitted per article III, section 17.

E) All other applicable sign standards pertaining to freestanding signs per article III shall apply along other street frontages.

14. *Traffic signals.* In locations where town and SCDOT warrants for signals are met and to the extent practicable, new traffic signals shall be installed using steel poles with mast arm. Such poles shall be installed in accordance with the standards set forth in 690.1 of the SCDOT Traffic Signals Supplemental Specifications, and style and finish shall be consistent with the black, decorative mast arms approved by the town and installed elsewhere within the municipal limits.

15. *Utilities.* To the extent practicable, all new utility lines shall be placed underground in accordance with the standards established by the utility. Where burying lines is deemed infeasible by good engineering practices, at a minimum, all tap lines from the main feeder shall be underground, and above-ground lines and supporting structures shall be located in a manner that screens them from public view. Such above-ground lines and supporting structures may be in easements outside of the road rights-of-way, for example, such that lines and structures are visually screened by street trees, vegetated buffers or buildings. Any visible, above-ground lines permitted by the town as a temporary measure shall be permitted in conjunction with an agreement that specifies a timeframe for permanently placing such lines underground or moving such lines to a location where they can be screened from public view.

16. *Walls and fences.*

    A) Walls and fences enclosing a site or portion(s) thereof.

        1) Fences and walls shall be limited to a maximum height of six feet for rear and side yards and cannot extend beyond the principal structure into the front yard.

        2) Front yard fences and walls shall not exceed four feet in height and must be approved by the zoning administrator.

        3) Fences and walls cannot be located in any right-of-way.

        4) On corner lots, fences may not be permitted beyond the principal structure in side yards facing the adjoining street. The sides and rear fence shall conform to the above guidance; however, due to the potential visibility problem, the construction of fences within the front yard will be restricted. The code enforcement officer may use the authority provided in article I, section 7, subsection M.A) to issue a special use permit for front yards on a case-by-case basis for corner lots.

    B) Retaining walls.

        1) No section of a retaining wall within a setback measured from the corridor right-of-way shall exceed ten feet in height as measured from the finished elevation at the base of the wall to the top of the wall cap.

    C) Construction, finishes and maintenance.

        1) Fences and walls shall be constructed with quality material and workmanship and be maintained in good repair.

        2) The material(s), color(s) and texture(s) of the sides of the walls and fences visible from public view shall complement the finishes of the structures of the associated development. Materials must be approved by the decision making body with review authority (staff or planning commission). Barbed wire, constantine wire, razor wire, or poultry wire are strictly prohibited.

        3) The finished side of fences and walls shall face adjoining property and shall blend with the landscape.

        4) For maintenance purposes and the property owners' protection, a six-inch setback from property lines shall be required.

17. *Alternative means of compliance.*

    A) Strict interpretation and application of the standards of this section may create particular hardships in certain locations and situations. Such examples may include, but are not limited to, the presence of any one or more of the following:

        1) Unusual or extreme topographic conditions or separations in grade;

        2) Water bodies, such as rivers, lakes, streams, marshes and wetlands, as well as floodplains, floodways, riparian buffers and conservation areas;

3) Irregular property configuration and/or dimensions, including lots that are extremely narrow or shallow in nature;

4) Existing easements and rights-of-way (public or private) that limit or restrict ordinary development of the property;

5) Public safety hazards, particularly, though not exclusively, related to ingress/egress locations;

6) Wildlife habitats and/or endangered species;

7) Sites and/or structures of archaeological and/or historical significance; and

8) Existing development which is proposed for retrofitting or expansion.

B) The decision making body with review authority (staff or planning commission) may approve a proposed development plan which does not meet a specific standard or standards of this section as an alternate means of compliance, subject to making the following findings:

1) The proposed development attempts to meet the intent of the corridor overlay district;

2) There are physical conditions, not only economic considerations, which prevent the proposed development from meeting the specific standards of this section;

3) The proposed development will be designed to meet the standards of this section to the fullest extent possible; and

4) The proposed development plan maintains or enhances public safety along the corridor.

In approving an alternate means of compliance, the reviewing authority may attach reasonable conditions regarding the location, character, or other features of the proposed building, structure, or use as the reviewing authority may consider advisable to protect established property values in the surrounding area, maintain the character of the corridor, or to promote the public health, safety, or general welfare.

C) Should the reviewing authority (staff or planning commission) fail to approve an applicant's proposed alternate means of compliance, the applicant may submit a variance request to the board of zoning appeals. Requests for variances from the provisions of this section shall be subject to review and approval by the board of zoning appeals, pursuant to article VIII of this ordinance, and Section 6-29-800 of the SC Code of Laws.

D) In no instance may staff, the planning commission or board of zoning appeals approve a variance or alternative means of compliance, the effect of which would be to allow the establishment of a use not otherwise permitted in either the underlying zoning district or the corridor overlay district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map.

18. *Waivers.*

A) The zoning administrator shall be authorized to grant a waiver from the requirements of the COD/COD-N overlay district for any parcel that meets the following criteria:

1) At least 25 percent of the parcel must be located outside of the corridor overlay district, as established in subsection 2.A).

2) The property shall have frontage along another public right-of-way other than or in addition to the corridor.

3) All portions of the property within 250 feet of the corridor right-of-way must be undevelopable due to one or more of the following:

(a) Presence of floodplain, floodway and/or wetland designation;

(b) Applicability of the resource conservation district, as established in article II, section 13, of this ordinance; or

(c) Documentation of a recorded conservation easement.

B) Any applicant who meets the conditions established by this subsection may apply for a waiver from the requirements of the COD/COD-N overlay district. The waiver request shall be made on an application form provided by the zoning administrator. The zoning administrator shall be authorized to charge an administrative review fee of $100.00 for each application. The application shall not be considered complete until the applicant provides all information required on the application form and pays the required application fee. A separate waiver application form shall be required for each parcel.

C) The zoning administrator shall have 30 days from the date upon which a completed application is received to render a decision on the waiver request. Any parcel which meets the eligibility requirements of this subsection shall be granted a waiver. If a decision is not made within 30 days, the waiver application shall be deemed approved.

D) All waivers granted by the zoning administrator shall be subject to the following conditions:

1) All proposed development and land disturbing activities shall be at least 250 feet from the corridor right-of-way.

2) The parcel shall have no ingress or egress to or from the corridor right-of-way.

3) All portions of the property within 250 feet of the corridor right-of-way shall be left in a natural, undisturbed state, except to accommodate a pedestrian facility connection, where feasible, between the two parcels on either side where such connection is not located within the corridor right-of-way.

4) The parcel shall not be enlarged due to recombination or subdivided into two or more parcels during the waiver period.

E) Waivers granted by the zoning administrator shall expire upon the earlier of the following:

1) If the property owner or his designee fails to obtain a building permit within one year from the date the waiver is granted.

2) If the parcel is enlarged due to recombination with all or part of one or more adjacent parcels.

3) If the parcel is subdivided into two or more parcels.

Nothing in this paragraph is intended to limit a property owner's ability to apply for a new waiver upon expiration of an existing waiver, regardless of cause. A new or existing parcel may qualify for a new waiver if the parcel meets the requirements of paragraph A). Subsequent waiver requests for new or existing parcels shall follow the same procedures outlined in paragraphs B) and C) and, if granted, shall be subject to the same conditions contained within paragraph D).

F) All waivers granted by the zoning administrator shall apply to the subject parcel and not the applicant. If an applicant shall sell or otherwise transfer the subject parcel to one or more subsequent owners after a waiver has been granted, the subsequent owner(s) need not apply for a new waiver, unless the waiver has expired per the provisions of paragraph E). Subsequent owners shall be subject to the same conditions as the original applicant, as outlined in paragraph D).

G) Any aggrieved party may appeal the decision of the zoning administrator within 60 days following the date of approval or denial of a waiver request. The board of zoning appeals shall have the authority to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by the zoning administrator in the enforcement of this subsection. All appeals shall be reviewed by the board of zoning appeals, pursuant to article VIII of this ordinance, and Section 6-29-800 of the SC Code of Laws.

(Ord. No. 2014-06, § III, 2-24-14)

Planning Commission Meeting
August 25, 2015
New Business Item

Annexation Request: Talkington Property
An ordinance annexing York County Tax Map Numbers 774-00-00-004 & 774-00-00-005, containing approximately 161 acres on S Dobys Bridge Road

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Background / Discussion

John P. and Delores M. Talkington, and Justin R. and Jason T. Talkington, the owners of record for York County Tax Map Numbers 774-00-00-004 & 774-00-00-005, have submitted an annexation request for approximately 161 acres located on Dobys Bridge Road. A property map and description are attached for reference.

The subject parcel is located adjacent to the Preserve at River Chase subdivision, which is located inside the town limits (zoned MXU Mixed Use). Therefore, the subject property meets the contiguity requirement as established by state law.

The subject parcel is currently zoned Rural Development District (RUD) per York County GIS. The county's RUD district allows farming and agricultural uses, campgrounds, churches, community centers, daycare centers, kennels, nursing homes, recreational facilities, and schools. A variety of residential uses, including single-family detached residences, single family detached housing developments (one acre per dwelling), modular homes, and manufactured homes, are also permitted.

The applicant has requested a zoning designation of R-5 Residential. The R-5 district allows for single family residences, as well as a limited number of non-residential uses, such as public facilities, religious institutions, and customary home occupations. The minimum lot size is 5,000 sf for single-family dwellings, and 1,500 sf for townhomes. The R-5 district contains a minimum open space requirement of 20%, as well as a project edge buffer of 35' along property lines adjacent to existing residential development. A text amendment adopted in September 2014 placed a density limit of 3 DUA by right, and up to 5 DUA with a development agreement.

The property is currently under contract for sale to Taylor Morrison of Carolinas, Inc., who is serving as the applicant. Taylor Morrison has stated that its intended use for the property, upon annexation, will be to develop a single-family residential subdivision.

This annexation request was first submitted in the summer/fall of 2014. The original application was withdrawn by the applicant prior to any final action being taken by town council.

Recommendation

The property is contiguous to the town limits and is, therefore, eligible for annexation.

The subject property is located within an area that has been designated as "Low-Density Residential" on the Town of Fort Mill's Future Land Use Map, last updated in January 2013. The comprehensive plan identifies "Low Density" as up to 2 dwelling units per acre. As a side note, the comprehensive plan further defines "Medium Density" residential as 3-5 dwelling units per acre. Therefore, there is some ambiguity as to whether a total overall density between 2 and 3 units per acre would be classified as low or medium density. While staff would recommend using 2.5 DUA as the threshold between low and medium density, this would be a policy decision of the town council.

In reviewing the annexation request, staff has identified several concerns which, we believe, will warrant additional discussion and evaluation:

Density / Zoning Designation

The applicant has requested a zoning designation of R-5 Residential. The original intent of the R-5 district is to promote medium density residential development, with densities ranging from 3-5 units per acre.

As stated above, the property is located in an area designated as medium density residential development (less than 2 units per acre).

The R-5 zoning district allows a maximum residential density of 3 units per acre (483 units) by right, and up to five units per acre (805 units) with a development agreement.

The developer has proposed a development and concept plan that would limit total density at 324 units, or 2.01 units per acre.

While we believe that a lower density zoning district, such as R-15 or R-25, is most closely aligned with the vision of the comprehensive plan, a development agreement that limits density to approximately 2 units per acre would be substantially compliant with the

recommendations of the plan.Should council choose to move the request forward with a zoning designation of R-5, staff would strongly recommend in favor of a development agreement that limits the permitted uses and overall density of the project.

Traffic Impact

The last time this request went before the Planning Commission and town council, the primary concern was the projected traffic impact. The current capacity status of S Dobys Bridge Road is still a relevant issue for discussion. At this time, there are several large tracts currently under development on the Dobys Bridge Road corridor, including Massey (923 homes), the Forest at Fort Mill (85 homes) and the Preserve at River Chase (236 homes). A new elementary school opened last year near Fort Mill Parkway, and the completion of the bypass is expected to continue to draw additional cut-through traffic from Lancaster and Union Counties.

All R-5 projects with more than 100 dwelling units must complete a traffic impact study prior to commencement of any development activities. Any improvements deemed necessary by the study, in consultation with the town and SCDOT, must be constructed at the applicant's expense.

Based on ITE trip generation rates, 324 single-family units would generate an estimated 3,084 additional daily vehicle trips (9.52 per unit).

Last year, a draft development agreement included an offer to donate sufficient right-of-way along the front of the property for the future widening of S Dobys Bridge Road. A $150,000 cash contribution was also offered to be used for roadway improvements on S Dobys Bridge Road or other transportation infrastructure as deemed reasonable by both the town and the applicant. No such contributions have been included in the proposed development agreement.

We would recommend completion of a traffic impact analysis prior to making a recommendation on the proposed annexation request.

Utility Impact

The subject property is located at the very end of the town's water and sewer system. The town engineer has expressed concern about the availability capacity within existing lines and infrastructure. In addition, the water system may need to be looped to ensure adequate pressure and service levels.

We would recommend that the applicant's engineer perform additional due diligence to determine the current and future capacity of existing utility infrastructure, and the impact that 324 additional homes would have on the existing system. As with all other projects, any upgrades necessary to serve the project would be borne by the applicant.

Fire Service

The subject property is located more than 5 miles (ordinary driving distance) from the town's fire station on Tom Hall Street. The town currently owns property adjacent to Dobys Bridge Park. The town currently operates a part time fire station at this location. The draft FY 15-16 budget anticipates additional construction to convert the property into a full-time fire station. If, and until, this station is completed, the 5 mile distance from the closest full time fire station will likely result in an automatic ISO rating of 10 for future residences within the proposed subdivision.

School Impact

Based on the Fort Mill School District's formula, a new residential development containing 324 new single-family units would be expected to generate approximately 100 new elementary students, 44 middle school students, and 66 high school students. This would result in a net capital impact of $8 million to $9 million. Impact fee collections ($2,500 per unit) would generate an estimated $810,000. With a projected value of $350,000 per unit and $35,000 in personal property per residence, the school district's current bond millage (85.5 mills) would yield approximately $446,000 per year at full build out. Combining impact fee revenues and bond millage, it would take 18-20 years to offset the cost of the school impact, assuming no change in millage rates.

At this time, staff would recommend in favor of deferring consideration of this request. Staff would recommend that a TIA be completed prior to the next meeting. We would also recommend additional due diligence in terms of utility capacity. In addition, staff will be requesting some modifications to the proposed development agreement submitted by the applicant.

Nothing in this report shall be deemed a guarantee that water and/or sewer service/capacity will be available at the time of development. The property shall also be subject to a TIA prior to the approval of a preliminary subdivision plat. Any improvements deemed necessary as a result of the TIA would be the responsibility of the owner/developer.

Joe Cronin
Planning Director
August 21, 2015

Date: July 31, 2015

Dennis Pieper
Town Manager
Town of Fort Mill
PO Box 159
Fort Mill, SC 29716

Re: Request for Annexation

Dear Mr. Pieper:

As the owners of the property indicated below, I/we respectfully request that the Town of Fort Mill annex the property into the Town limits. I/we also request that the property be zoned upon annexation as indicated. Thank you for your consideration.

Property Address: Doby's Bridge Road

Tax Map Number: 774-00-00-004 & 774-00-00-005

Total Acreage: 161 Acres (combined from tax records)

Zoning Designation Requested: R-5 Residential District

Property Owners:

Print Name(s):	Signature(s):
John P. Talkington	John P Talkington
Delores M. Talkington	Delores Talkington
Justin Ryan Talkington	Justin R Talkington
Jason Todd Talkington	Jason Todd Talk

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

ORDINANCE NO. 2015-___

AN ORDINANCE ANNEXING YORK COUNTY TAX MAP NUMBERS 774-00-00-004 & 774-00-00-005, CONTAINING APPROXIMATELY 161 ACRES ON S DOBYS BRIDGE ROAD

WHEREAS, a proper petition was submitted to the Fort Mill Town Council on July 31, 2015, by John P. and Delores M. Talkington, and Justin R. and Jason T. Talkington (the "Property Owners"), requesting that York County Tax Map Numbers 774-00-00-004 & 774-00-00-005, which are owned fully by the individuals referenced above, be annexed to and included within the corporate limits of the Town of Fort Mill under the provisions of S.C. Code Section 5-3-150(3); and

WHEREAS, the Planning Commission of the Town of Fort Mill, in a duly called meeting on September 22, 2015, made its recommendation in favor of annexation, and that upon annexation, the aforesaid area be zoned under the Town's Zoning Code, as follows: R-5 Residential; and

WHEREAS, a public hearing was advertised and held at 7:00 pm on October 12, 2015, during a duly called regular meeting of the Town Council of the Town of Fort Mill; and

WHEREAS, Section 5-3-150(3) of the Code of Laws of the State of South Carolina, as amended, provides that any area or property which is contiguous to a municipality may be annexed to the municipality by filing with the municipal governing body a petition signed by all persons owning real estate in the area requesting annexation. Upon the agreement of the governing body to accept the petition and annex the area, and the enactment of an ordinance declaring the area annexed to the municipality, the annexation is complete; and

WHEREAS, using the definition of "contiguous" as outlined in S.C. Code Section 5-3-305, the Town Council has determined that the above referenced property is contiguous to property that was previously annexed into the corporate limits of the Town of Fort Mill; and

WHEREAS, the Town Council has determined that annexation would be in the best interest of both the property owners and the Town of Fort Mill;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fort Mill in Council assembled:

SECTION I. Annexation. It is hereby declared by the Town Council of the Town of Fort Mill, in Council assembled, that the incorporated limits of the Town of Fort Mill shall be extended so as to include, annex and make a part of said Town, the described area of territory above referred to, being more or less 161 acres, the same being fully described in Exhibit "A" attached hereto, and contiguous to land already within the Town of Fort Mill. Pursuant to S.C. Code Section 5-3-110, this annexation shall include the whole or any part of any street, roadway, or highway abutting

the above referenced property, not exceeding the width thereof, provided such street, roadway or highway has been accepted for and is under permanent public maintenance by the Town of Fort Mill, York County, or the South Carolina Department of Transportation.

SECTION II. Zoning Classification of Annexed Property. The above-described property, upon annexation into the corporate limits of the Town of Fort Mill, shall be zoned, as follows: R-5 Residential.

SECTION III. Voting District. For the purpose of municipal elections, the above-described property, upon annexation into the incorporated limits of the Town of Fort Mill, shall be assigned to and made a part of Ward Four (4).

SECTION IV. Notification. Notice of the annexation of the above-described area and the inclusion thereof within the incorporated limits of the Town of Fort Mill shall forthwith be filed with the Secretary of State of South Carolina (SCSOS), the South Carolina Department of Public Safety (SCDPS), and the South Carolina Department of Transportation (SCDOT), pursuant to S.C. Code § 5-3-90(E).

SECTION V. Severability. If any section, subsection, or clause of this resolution shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SECTION VI. Effective Date. This ordinance shall be effective from and after the date of adoption.

SIGNED AND SEALED this _____ day of _____, 2015, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2015.

First Reading: October 12, 2015
Public Hearing: October 12, 2015
Second Reading: October 26, 2015

TOWN OF FORT MILL

_____
Danny P. Funderburk, Mayor

LEGAL REVIEW

_____
Barron B. Mack, Jr, Town Attorney

ATTEST

_____
Dana Powell, Interim Town Clerk

EXHIBIT A

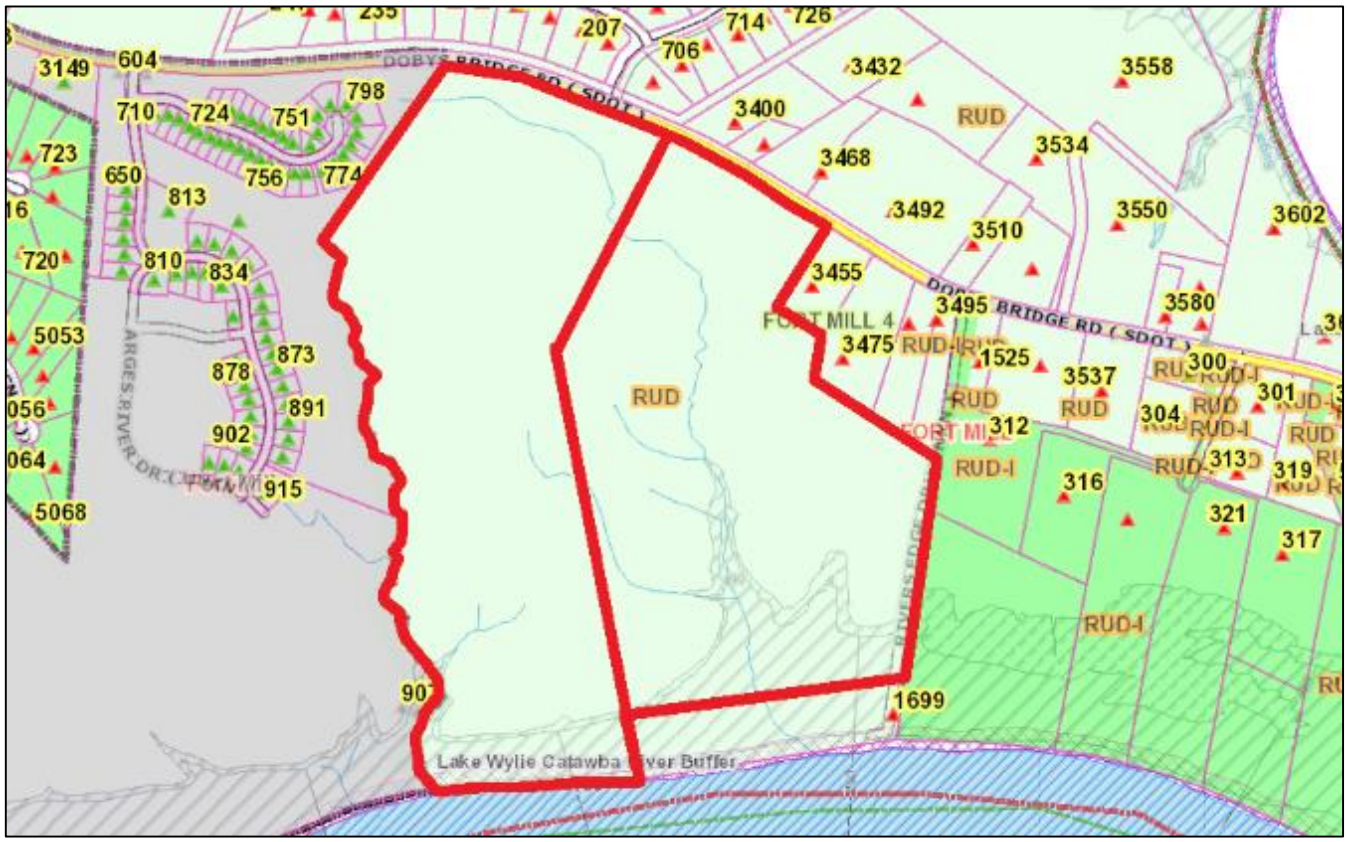
Property Description

All those certain pieces, parcels or tracts of land lying, being and situate in Fort Mill Township, County of York, State of South Carolina, containing 161 acres, more or less, containing all the property shown in the map attached as Exhibit B, and being more particularly described as York County Tax Map Numbers 774-00-00-004 & 774-00-00-005.

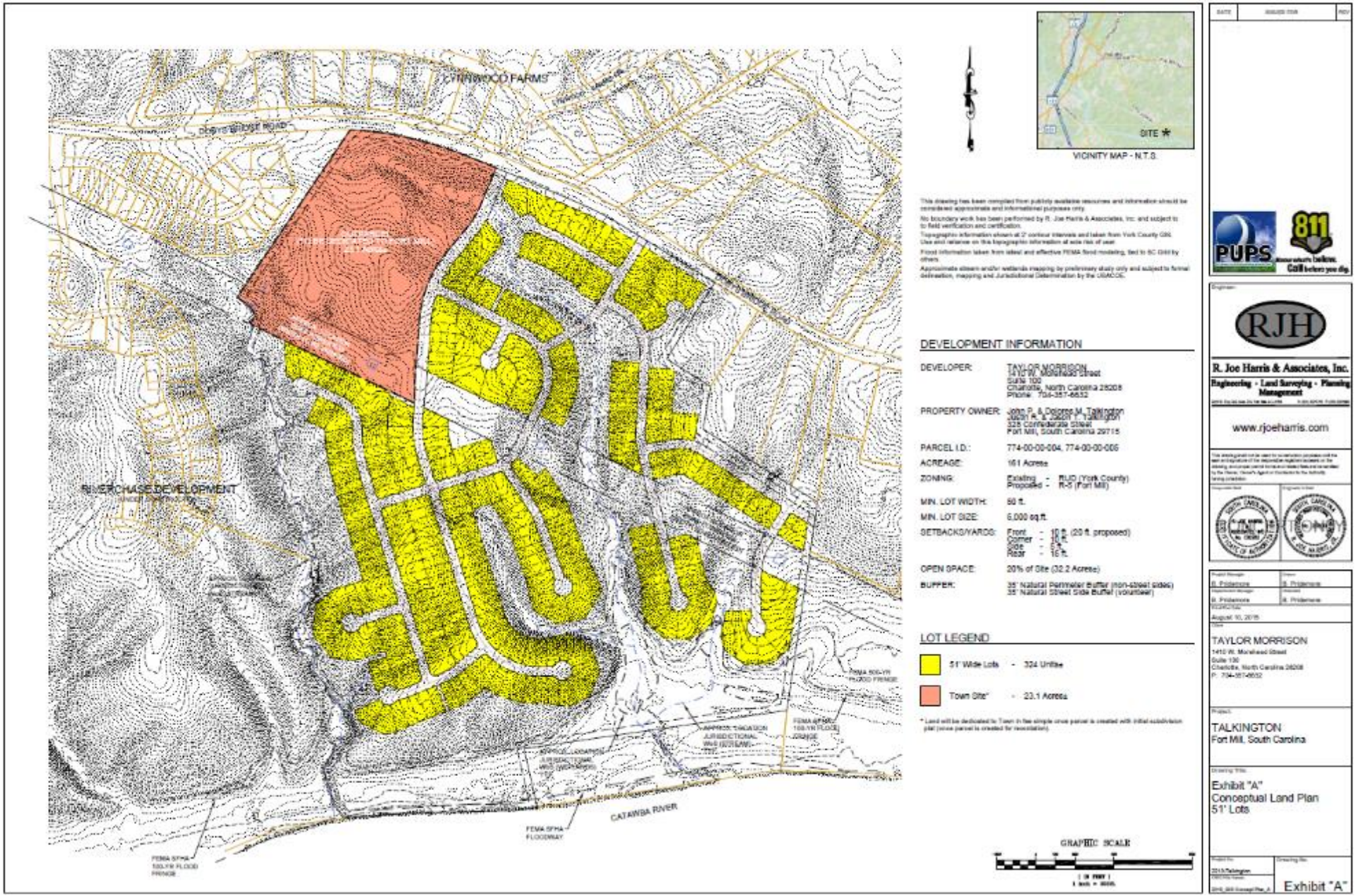
Pursuant to S.C. Code Section 5-3-110, this annexation shall include the whole or any part of any street, roadway, or highway abutting the above referenced property, not exceeding the width thereof, provided such street, roadway or highway has been accepted for and is under permanent public maintenance by the Town of Fort Mill, York County, or the South Carolina Department of Transportation.

EXHIBIT B

Property Map
York County Tax Map # 774-00-00-004 & 774-00-00-005



Concept Plan



DRAFT DEVELOPMENT AGREEMENT & ORDINANCE

STATE OF SOUTH CAROLINA
TOWN COUNCIL FOR THE TOWN OF FORT MILL
ORDINANCE NO. 2015-___

AN ORDINANCE AUTHORIZING THE ENTRY BY THE TOWN OF FORT MILL INTO A DEVELOPMENT AGREEMENT WITH TAYLOR MORRISON OF CAROLINAS, INC. FOR PROPERTY LOCATED AT YORK COUNTY TAX MAP NUMBERS 7740000004 AND 7740000005, SUCH PARCELS CONTAINING APPROXIMATELY 167 ACRES LOCATED ON DOBYS BRIDGE ROAD; AUTHORIZING THE EXECUTION AND DELIVERY OF SUCH DEVELOPMENT AGREEMENT; AND OTHER MATTERS RELATING THERETO

Pursuant to the authority granted by the Constitution of the State of South Carolina and the General Assembly of the State of South Carolina, BE IT ENACTED BY THE TOWN COUNCIL FOR THE TOWN OF FORT MILL:

ARTICLE I

FINDINGS OF FACT

Section 1.1 Findings of Fact. As an incident to the adoption of this Ordinance, the Town Council (the "Town Council") of the Town of Fort Mill, South Carolina (the "Town"), has made the following findings:

(A) The Town is authorized pursuant to the provisions of the South Carolina Local Government Development Agreement Act, codified as Sections 6-31-10 through 6-31-160, inclusive, of the Code of Laws of South Carolina, 1976, as amended (herein and as codified, the "Act"), to enter into development agreements with developers (as defined in the Act) to promote comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources and reduce the economic cost of development.

(B) The Town has engaged in negotiations with Taylor Morrison of Carolinas, Inc., a North Carolina corporation (the "Developer"), with respect to the terms of the development agreement attached hereto as Exhibit A (the "Agreement"), and has reached an agreement with the Developer on the matters set forth in the Agreement. The Property (as defined in the agreement) has by ordinance adopted on_____ (Ordinance No._____) been annexed into the Town by agreement of 100% of the owners thereof pursuant to Section 5-3-150, Code of Laws of South Carolina, 1976, as amended.

(C) After due investigation, the Town Council has determined that it is in the best interests of the Town to approve the Agreement and authorize its execution and delivery.

(D) The Town Council has made a finding that the development of the Property as proposed in the Concept Plan, as defined in the Agreement, is consistent with the Town's comprehensive plan and land development regulations in effect as of the date hereof.

(E) The Town Council has determined that all conditions precedent to the execution and delivery of the Agreement shall, upon the final reading of this Ordinance (herein, "Ordinance"), have been met. Two public hearings, as required by Section 6-31-50 of the Act, have been duly noted and held.

(F) The Town Council is adopting this Ordinance in order to:

(1) approve the entry by the Town into the Agreement; and

(2) authorize the execution and delivery of the Agreement on behalf of the Town.

ARTICLE II

THE AGREEMENT

Section 2.1 Authorization of Agreement. The Town Council hereby authorizes the entry by the Town into the Agreement in the form attached hereto as Exhibit A and incorporated herein by reference.

Section 2.2 Execution and Delivery of Agreement. The Town Council authorizes the Mayor of the Town to execute and deliver the Agreement to the Developer. The Town Clerk is authorized to affix, emboss, or otherwise reproduce the seal of the Town to the Agreement and attest the same.

Section 2.3 Effective Date. This ordinance shall be effective from and after the date of adoption.

Section 2.4 Severability. If any section, subsection, or clause of this Ordinance shall be deemed to be unconstitutional, or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

SIGNED AND SEALED this _____ day of _____, 2015, having been duly adopted by the Town Council for the Town of Fort Mill on the _____ day of _____, 2015.

First Reading:
Public Hearing #1:
Public Hearing #2:
Second Reading:

TOWN OF FORT MILL

_____
Danny P. Funderburk, Mayor

LEGAL REVIEW

_____

Barron B. Mack, Jr, Town Attorney

ATTEST

_____

Dennis Pieper, Town Manager

STATE OF SOUTH CAROLINA)
) RESIDENTIAL DEVELOPMENT AGREEMENT
COUNTY OF YORK)

This Development Agreement ("Agreement") is made and entered this _____ day of _____ 2015 (the "Effective Date"), by and between Taylor Morrison of Carolinas, Inc., a North Carolina corporation ("Developer"), and the governmental authority of the Town of Fort Mill, South Carolina ("Fort Mill" or "Town").

WHEREAS, the legislature of the State of South Carolina has enacted the "South Carolina Local Government Development Agreement Act" (the "Act"), as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended; and

WHEREAS, Section 6-31-10(B)(1) of the Act recognizes that "[t]he lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning."; and

WHEREAS, Section 6-31-10(B)(6) of the Act also states that "[d]evelopment agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the Development Agreement or in any way hinder, restrict, or prevent the development of the project. Development Agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State."; and,

WHEREAS, the Act further authorizes local governments, including municipal governments, to enter into Development Agreements with developers to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

WHEREAS, the Town seeks to protect and preserve the natural environment and to secure for its citizens quality, well planned and designed development and a stable and viable tax base; and

WHEREAS, the Town finds that the program of development for this Property (as hereinafter defined) proposed by Developer over the next five (5) years or as extended as provided herein is consistent with the Town's comprehensive land use plan and will further the health, safety, welfare and economic wellbeing of the Town and its residents; and

WHEREAS, the development of the Property and the program for its development presents an opportunity for the Town to secure quality planning and growth, protection of the environment, and to strengthen and revitalize the Town's tax base; and

WHEREAS, this Agreement is being made and entered into between Developer and Fort Mill, under the terms of the Act, for the purpose of providing assurances to Developer that it may proceed with its development plan under the terms hereof, consistent with its approved Concept Plan (as hereinafter defined) without encountering future changes in law which would materially affect the Developer's ability to develop the Property under its Concept Plan, and for the purpose of providing important protection to the natural environment and long term financial stability and a viable tax base to the Town.

NOW THEREFORE, in consideration of the terms and conditions set forth herein, and other good and valuable consideration, including the potential economic benefits to both Fort Mill and Developer by entering this Agreement, and to encourage well planned development by Developer, the receipt and sufficiency of such consideration being hereby acknowledged, Fort Mill and Developer hereby agree as follows:

INCORPORATION.

The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(B) of the Act.

DEFINITIONS.

As used herein, the following terms mean:

"Act" means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the Code of Laws of South Carolina (1976), as amended; attached hereto as Exhibit A.

"Code of Ordinances" means the Code of Ordinances for the Town in effect as of the date hereof, a complete copy of which is on file with the Developer's office.

"Concept Plan" means that certain document titled "Sketch Plan" (Exhibit B hereto), approved by the Town on_____, incidental to the Town's zoning of the Property to R-5 Residential (Exhibit C hereto).

"Developer" means Owner and all successors in title or lessees of the Owner who undertake development of the Property or who are transferred Development Rights and Obligations.

"Development Rights and Obligations" means the rights, obligations, benefits and approvals of the Owner or Developer(s) under this Agreement.

"Owner" means Taylor Morrison of Carolinas, Inc., a North Carolina corporation, or its successors in title.

"Owners Association" means a legal entity formed by Developer pursuant to South Carolina statutes which is responsible for the enforcement of neighborhood restrictions and covenants, and for the maintenance and upkeep of any common areas and/or community infrastructure developed under this Agreement, but not accepted by the Town for perpetual ownership and maintenance, to include but not be limited to: private roads and alleyways, common areas, neighborhood parks and recreational facilities, and storm water management systems.

"Project" means the residential development project envisioned by the Concept Plan and approved by the Town pursuant to, and in compliance with, the Zoning Ordinance and the Code of Ordinances.

"Property" means that tract of land described on Exhibit D.

"Term" means the duration of this Agreement as set forth in Section III hereof.

"Zoning Ordinance" means the Zoning Ordinance for the Town in effect as of the date hereof, a complete copy of which is on file with the Developer's office.

TERM.

The term of this Agreement shall commence on the date this Agreement is executed by the Town and Owner, and shall terminate upon completion of development of the Property or ten years from the date of execution, whichever event first occurs. It is expected that the Project will take up to 20 years to complete. In order to fully realize the benefits accruing to Town and Developer recited in this Agreement, if the Developer is not in default (after being provided with notice and opportunity to cure as set forth below) of this Agreement at the conclusion of a ten year term, the termination date of this Agreement may be extended by written approval of both the Town and Owner for an additional five-year term. The Town and Owner may by written approval extend the term for a total of two successive five-year terms so long as the Developer is not in default at the conclusion of each successive five-year term.

DEVELOPMENT OF THE PROPERTY.

Except as otherwise set forth in this Agreement, the Property shall be developed in accordance with the Zoning Ordinance, the Code of Ordinances, and other applicable land development regulations required by the Town, State, and/or Federal Government, and this Agreement. The Town shall, throughout the Term, maintain or cause to be maintained a procedure for the expeditious and efficient processing of reviews as contemplated by the Zoning Ordinance and Code of Ordinances. The Town shall review applications for development approval based on the residential development standards adopted as a part of the Zoning Ordinance and Code of Ordinances. Developer will establish, through covenants running with the land, requirements for architectural elements and architectural style for the Project that will be enforced by Developer and Owners Association. Town shall promptly approve any and all subdivision plats for all phases of the Project that are consistent with the Concept Plan and to be recorded in the public registry upon presentment of the same to the Town

ASSIGNMENT OF DEVELOPMENT RIGHTS AND OBLIGATIONS.

Owner does, for itself and its successors and assigns, including Developer(s) and notwithstanding the Zoning Ordinance, agree to be bound by the following:

The Owner shall be entitled to assign and delegate the Development Rights and Obligations to a subsequent purchaser of all or any portion of the Property without the consent of the Town, provided that the Owner shall notify the Town, in writing, as and when Development Rights and Obligations are transferred to any other party. Such information shall include the identity and address of the acquiring party, a proper contact person, the location and number of acres of the Property transferred, and the number of residential units and/or commercial acreage, as applicable, subject to the transfer. A Developer transferring Development Rights and Obligations to any other party shall be subject to this requirement of notification, and any entity acquiring Development Rights and Obligations hereunder shall be required to file with the Town an acknowledgment of this Agreement and a commitment to be bound by it.

The Developer and any Owner agree that the Project will be served by public potable water and sewer, subject to the terms as provided in Article IX, prior to occupancy.

DEVELOPMENT SCHEDULE.

The Property shall be developed in accordance with the development schedule, attached as Exhibit E. Pursuant to the Act, the failure of the Developer and any Owner to meet the development schedule shall not, in and of itself, constitute a material breach of this Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to any change in economic conditions, the Owner's and Developer's commercially reasonable efforts made to attain compliance with the development schedule, any Permitted Delays (as defined below), and/or any failure of Town to comply with this Agreement. As further provided in the Act, if the Developer requests a modification of the dates set forth in the development agreement and is able to demonstrate that there is a commercially reasonable cause to modify those dates, those dates must be modified by the Town. A major modification of the agreement may occur only after public notice and a public hearing by the Town. Town shall work in good faith with Developer, its contractors, and any and all applicable governmental departments, agencies, and authorities to facilitate the expeditious development of the Project.

USES AND DENSITY.

Development on the property shall be limited to the following:

Detached, single family residential dwellings that are materially consistent with the densities shown on the Concept Plan. Dwelling units shall be restricted to the height set forth in the R-5 Residential Zoning category. Owners Association dedications, common amenities and facilities for residents, and other customary associated uses shall also be permitted.

Land used for public recreational facilities, and such uses accessory thereto, shall be limited to those uses specified in Exhibit F.

Town shall promptly approve and/or execute, as applicable, any and all documentation necessary to obtain building permits for residential dwellings to be constructed within the Project as shown on the Concept Plan.

EFFECT OF FUTURE LAWS.

Developer and any Owner shall have vested rights to undertake development of any or all of the Property in accordance with the Code of Ordinances and the Zoning Ordinance in existence as of the Effective Date, as they may be modified in the future pursuant to the terms hereof, and this Agreement for the entirety of the Term. Future enactments of, or changes or amendments to the Town ordinances, including the Code of Ordinances or the Zoning Ordinance, which conflict with this Agreement shall apply to the Property only if mandated by the Act, or otherwise agreed to in writing by the parties. The parties specifically acknowledge that building moratoria enacted by the Town during the term of this Agreement shall not apply to the Project except as may be mandated by the Act.

The parties specifically acknowledge that this Agreement shall not prohibit the application of any present or future building, housing, electrical, plumbing, gas or other standard codes, of any tax or fee of general application throughout the Town, including but not limited to impact fees and stormwater utility fees (so long as such development impact fees and stormwater utility fees are applied consistently and in the same manner to all similarly-situated property within the Town limits), or of any law or ordinance of general application throughout the Town found by the Fort Mill Town Council to be necessary to protect the health, safety and welfare of the citizens of Fort

Mill. Notwithstanding the above, the Town may apply subsequently enacted laws to the Property only if mandated by the Act.

INFRASTRUCTURE AND SERVICES.

Fort Mill and Developer recognize that the majority of the direct costs associated with the development of the Property will be borne by the Developer. Subject to the conditions set forth herein, the parties make specific note of and acknowledge the following:

Potable Water. Potable water will be supplied to the Property by the Town. Developer will construct or cause to be constructed at Developer's cost all necessary water service infrastructure to, from, and within the Property per Town specifications which will be maintained by it or the provider. Without limiting the foregoing, Developer shall perform the work described on Exhibit H attached hereto and incorporated herein by this reference. Town shall promptly issue, as often and as long as necessary, any and all required consents, approvals, confirmations, and/or responses, as needed, to grant and/or extend water permits for the Property any other applicable governmental authorities. The Developer shall be responsible for maintaining all related water infrastructure until offered to, and accepted by, the Town for public ownership and maintenance. Upon final inspection and acceptance by the Town (which final inspection and acceptance shall not be unreasonably withheld, conditioned, or delayed), the Developer shall provide a one-year warranty period for all water infrastructure constructed to serve the Project. In addition to the foregoing one-year warranty, the Developer and/or assigns shall also provide a limited extended warranty that covers only defective materials and/or equipment and not normal wear and tear of such materials and/or equipment or any other aspects of such work for a period ending on the earlier of (i) the date that certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots within the Project, (ii) the date that all public roads within the Project have been accepted by the Town, or (iii) the date that all common open space within the Project has been turned over to the applicable homeowners association. Developer shall be responsible for paying all water capacity fee/hookup charges

The Property shall be subject to all current and future water connection/capacity fees imposed by the Town, provided such fees are applied consistently and in the same

manner to all similarly-situated property within the Town limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future water connection/capacity fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits).

Notwithstanding the provisions referenced above, nothing in this agreement shall preclude the Town and Owner/Developer from entering into a separate utility agreement for cost-sharing of water transmission systems when such agreement may be of mutual benefit to both parties. Nothing herein shall be construed as precluding the Town from providing potable water to its residents in accordance with applicable provisions of laws.

Sewage Treatment and Disposal. Sewage treatment and disposal will be provided by the Town. Developer will construct or cause to be constructed at Developer's cost all related infrastructure improvements to, from, and within the Property per Town specifications. Without limiting the foregoing, Developer shall perform the work described on Exhibit H attached hereto and incorporated herein by this reference. Town shall promptly issue, as often and as long as necessary, any and all flow letters and required consents, approvals, confirmations, and/or responses, as needed, to grant and/or extend sewer permits for the Property with the South Carolina Department of Health and Environmental Control (SCDHEC) or any other applicable governmental authority. The Developer shall be responsible for maintaining all related sewer infrastructure until offered to, and accepted by, the Town for public ownership and maintenance. Upon final inspection and acceptance by the Town (which final inspection and acceptance shall not be unreasonably withheld, conditioned, or delayed), the Developer shall provide a one-year warranty period for all sewer infrastructure constructed to serve the Project. In addition to the foregoing one-year warranty, the Developer and/or assigns shall also provide a limited extended warranty that covers only defective materials and/or equipment and not normal wear and tear of such materials and/or equipment or any other aspects of such work for a period ending on the earlier of (i) the date that certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots within the Project, (ii) the date that all public roads within the Project have been accepted by the Town, or (iii) the date that all

common open space within the Project has been turned over to the applicable homeowners association. Treatment capacity at the Town's municipal wastewater treatment plant will not be reserved until a sewer system construction permit has been issued for the Project by the South Carolina Department of Health and Environmental Control (SCDHEC).

The Property shall be subject to all current and future sewer connection/capacity fees imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future sewer connection/capacity fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits).

Notwithstanding the provisions referenced above, nothing in this agreement shall preclude the Town and Owner/Developer from entering into a separate utility agreement for cost-sharing of sewer transmission systems when such agreement may be of mutual benefit to both parties. Nothing herein shall be construed as precluding the Town from providing sewage treatment to its residents in accordance with applicable provisions of laws.

C. Private Roads. All roads within the Project shall be public roads. Private alleys may be allowed in limited circumstances, provided such alleys are constructed to Town standards, are approved by the Fort Mill Planning Commission as part of the subdivision plat approval process, and will be owned and maintained by a private Owners Association.

D. Public Roads and Traffic Impact. All public roads within the Project shall be constructed to Fort Mill and South Carolina Department of Transportation (SCDOT) specifications. The exact location, alignment, and name of any public road within the Project shall be subject to review and approval by the Fort Mill Planning Commission as part of the subdivision platting process provided that any such subdivision plats that are materially consistent with the site plan of the Project shown on the Concept Plan shall be approved. The Developer shall be responsible for maintaining all public roads until such roads are offered to, and accepted by, the Town for public ownership and

maintenance. The Town shall not accept such roads for public ownership and maintenance until certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots. Upon final inspection and acceptance by the Town (which final inspection and acceptance shall not be unreasonably withheld, conditioned, or delayed), the Developer shall provide a one-year warranty period for all public roads within the Project.

Developer recognizes the potential impact on the public roadways resulting from the Project. A traffic impact analysis shall be performed by the Developer, as required by the Zoning Ordinance, and the Developer shall be responsible for any improvements deemed necessary by the traffic impact analysis. No further traffic impact analysis will be required for individual development applications that are submitted in conformity with the Zoning Ordinance. The Developer may, at the Developer's option, coordinate with adjacent property owners for a joint traffic impact analysis, provided development on both or all properties is expected to commence within twenty-four (24) months from the date of the analysis.

E. Storm Drainage System. All stormwater runoff, drainage, retention and treatment improvements within the Property shall be designed in accordance with the Zoning Ordinance and Chapter 16 of the Code of Ordinances. All stormwater runoff and drainage system structural improvements, including culverts and piped infrastructure, will be constructed by the Developer and dedicated to the Town. The Town shall not accept such drainage system structural improvements for public ownership and maintenance until certificates of occupancy have been issued for at least eighty percent (80%) of all buildable lots. Upon final inspection and acceptance by the Town (which final inspection and acceptance shall not be unreasonably withheld, conditioned, or delayed), the Developer shall provide a one-year warranty period for all drainage system structural improvements within the Project. Retention ponds, ditches and other stormwater retention and treatment areas will be constructed and maintained by the Developer and/or an Owners Association, as appropriate.

F. Solid Waste and Recycling Collection. The Town shall provide solid waste and recycling collection services to the Property on the same basis as is provided to other residents and businesses within the Town.

G. Police Protection. The Town shall provide police protection services to the Property on the same basis as is provided to other residents and businesses within the Town.

H. Fire Services. The Town shall provide fire services to the Property on the same basis as is provided to other residents and businesses within the Town.

I. Emergency Medical Services. Such services to the Property are now provided by York County through a contract with a private provider. The Town shall not be obligated to provide emergency medical services to the Property, absent its election to provide such services on a town-wide basis.

J. School Services. Such services are now provided by the Fort Mill School District (the "School District"). Developer shall be responsible paying all impact fees levied by the School District for each residential unit constructed prior to the issuance of a certificate of occupancy (so long as such impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits). The Town shall not be obligated to provide school services to the Property, absent its election to provide such services on a town-wide basis.

K. Private Utility Services. Private utility services, including electric, natural gas, and telecommunication services (including telephone, cable television, and internet/broadband) shall be provided to the site by the appropriate private utility providers based upon designated service areas. All utilities on the property shall be located underground, and shall be placed in locations approved by the Town so as to reduce or eliminate potential conflicts within utility rights-of-way.

L. Streetlights. Developer shall install or cause to be installed streetlights within the Project. To the extent that the Town provides the same benefit to other neighborhoods, the Town shall contribute toward the monthly cost for each streetlight. The remaining monthly cost for each streetlight, if any, shall be borne by the Developer and/or Owners Association.

M. Parks and Open Spaces. As identified in the Concept Plan shown in Exhibit B, certain parcels within the Project will be owned and maintained by the Developer/Owners Association as private parks, amenities and open space, and certain

lands identified in Exhibit F will be dedicated to and maintained by the Town for public parks, amenities and open space.

N. Civic Space. Any properties designated for "Civic Use" in the Concept Plan shown in Exhibit B shall be retained in civic use in perpetuity.

O. Easements. Owner/Developer shall be responsible for obtaining, at Owner/Developer's cost, all easements, access rights, or other instruments that will enable the Owner/Developer to tie into current or future water and sewer infrastructure on adjacent properties.

IMPACT FEES.

The Property shall be subject to all current and future development impact fees imposed by the Town, provided such fees are applied consistently and in the same manner to all similarly-situated property within the Town limits. In particular, the Developer agrees that it shall not seek any exemptions for any portions of the Property from any current or future development impact fees (so long as such development impact fees are applied consistently and in the same manner to all similarly-situated property within the Town limits) for any reason, including the fact that such portions of the Property may be or have been developed as senior housing (it being agreed that there is no obligation of Owner or any Developer to construct senior housing). For the purpose of this Agreement, the term "development impact fees" shall include, but not be limited to, the meaning ascribed to such term in the South Carolina Development Impact Fee Act, Sections 6-1-910, et seq., of the South Carolina Code of Laws (1976), as amended. The School District is hereby deemed a third-party beneficiary of this Section and may enforce the provisions hereof.

PROTECTION OF ENVIRONMENT AND QUALITY OF LIFE.

The Town and Developer recognize that development can have negative as well as positive impacts. Specifically, Fort Mill considers the protection of the natural environment and nearby waters, and the preservation of the character and unique identity of the Town, to be important goals. Developer shares this commitment and therefore agrees to abide by all provisions of federal and state laws and regulations for the handling of storm water.

COMPLIANCE REVIEWS.

Developer, or its assigns, shall meet with the Town, or its designee, at least once per year during the Term to review development completed in the prior year and the development anticipated to be commenced or completed in the ensuing year. The Developer and Town must each demonstrate good faith compliance with the terms of this Agreement. The Developer, or its designee, shall be required to provide such information as may reasonably be requested, to include but not be limited to, acreage of the Property sold in the prior year, acreage of the Property under contract, the number of certificates of occupancy issued in the prior year and the number anticipated to be issued in the ensuing year, and Development Rights and Obligations transferred in the prior year and anticipated to be transferred in the ensuing year. The Town shall be required to the keep the Developer and any Owners apprised of any changes to the Code of Ordinances and/or Zoning Ordinance that are mandated by the Act.

DEFAULTS.

The failure of the Developer and any Owner to comply with the terms of this Agreement and cure the same within thirty (30) days after written notice thereof from Town shall constitute a default, entitling the Town to pursue such remedies as deemed appropriate, including specific performance and the termination or modification of this Agreement in accordance with the Act; provided however no termination of this Agreement may be declared by the Town absent its according the Developer and any Owner any additional notice and opportunity to cure afforded by the Act.

The failure of the Town to comply with the terms of this Agreement and cure the same within thirty (30) days after written notice thereof from Developer and any Owner shall constitute a default, entitling the Developer and any Owner to pursue such remedies as deemed appropriate, including specific performance and the termination or modification of this Agreement in accordance with the Act; provided however no termination of this Agreement may be declared by the Developer and Owners absent its according the Town any additional notice and opportunity to cure afforded by the Act.

MODIFICATION OF AGREEMENT.

This Agreement may be modified or amended only by the written agreement of the Town and the Developer. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced except as otherwise provided in the Act. The size of the Property may be increased by written approval of the Town.

NOTICES.

Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or if by mail on the fifth (5^{th}) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to the Town at:

Town of Fort Mill
P.O. Box 159
Fort Mill, SC 29716
Attention: Town Manager

And to the Developer at:

Taylor Morrison of Carolinas, Inc.
1410 W. Morehead Street, Suite 100
Charlotte, NC 28208
Attention: Kevin J. Granelli and Alan Kerley

GENERAL.

Subsequent Laws. In the event state or federal laws or regulations are enacted after the execution of this Agreement or decisions are issued by a court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement ("New Laws"), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, or court decision, a party designated by the Owner and Developer and the Town shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Law would have on the purposes and intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the Town may take reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a court of competent jurisdiction for an appropriate modification or suspension of this Agreement.

Estoppel Certificate. The Town, the Owner or any Developer may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

that this Agreement is in full force and effect,

that this Agreement has not been amended or modified, or if so amended, identifying the amendments,

whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and

whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and the Developer relative to the Property and its development and there are no promises, agreements, conditions or understandings,

oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

No Partnership or Joint Venture. Nothing in this Agreement shall be deemed to create a partnership or joint venture between the Town, the Owner or any Developer or to render such party liable in any manner for the debts or obligations of another party.

Exhibits. All exhibits attached hereto and/or referred to in this Agreement are incorporated herein as though set forth in full.

Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

Assignment. Other than Development Rights and Obligations as defined herein, no other rights, obligations, duties or responsibilities devolved by this Agreement on or to the Owner, Developer(s) or the Town are assignable to any other person, firm, corporation or entity.

Binding Effect. The parties hereto agree that this agreement shall be binding upon their respective successors and/or assigns.

Governing Law. This Agreement shall be governed by the laws of the State of South Carolina.

Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute but one and the same instrument.

Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the Town's right and power of eminent domain under the laws of the State of South Carolina.

No Third Party Beneficiaries. The provisions of this Agreement may be enforced only by the Town, the Owner and Developers. No other persons shall have any rights hereunder, unless specified in this Agreement.

Permitted Delays. The obligations of Developer under this Agreement shall be excused for a period of time equal to the period of prevention, delay or stoppage due to any cause beyond

the reasonable control of Developer (a "Permitted Delay") including, without limitation, strikes, civil riots, war, fire or other casualty, unusually severe weather conditions (including but not limited to named hurricanes and tropical storms), acts of God, or failure to secure, or a delay in securing the issuance of, any permit or other necessary governmental approval.

STATEMENT OF REQUIRED PROVISIONS.

Specific Statements. Section 6-31-60(A) of the Act requires that a development agreement include specific mandatory provisions. Certain of these items are addressed elsewhere in this Agreement. The following listing of required provisions supplements those previously provided and completes the mandatory provisions:

Legal Owners of Property. The present legal owners of the Property are set forth in Exhibit G hereto.

Development Uses Permitted on the Property. The Property shall be permitted for development and sale of single family residences; Owners Association dedications, common amenities and facilities for its residents, and other customary associated uses. Land used for public recreational facilities, and such uses accessory thereto, shall be limited to those uses set forth in Exhibit F hereto.

Reservation or Dedication of Land for Public Purpose. Exhibit F hereto provides a detailed description of the land dedicated for public purpose.

Description of Local Development Permits Needed. The development shall be pursuant to the Zoning Ordinance and Code of Ordinances. Necessary permits include, but may not be limited to, the following: building permits, zoning compliance permits, sign permits (permanent and temporary), temporary use permits, accessory use permits, driveway/encroachment/curb cut permits, clearing/grading permits, and land disturbance permits. Pursuant to Chapter 32 of the Code of Ordinances, approval from the Fort Mill Planning Commission shall be required for all sketch plans, preliminary plats, and final plats, unless such plan or plat meets the requirements for administrative review and approval. Notwithstanding the foregoing, the Town acknowledges that Planning Commission and/or administrative approval of plats will be given if any such plats are materially consistent with the site plan of the Project shown on the Concept Plan. It is specifically

understood that the failure of this Agreement to address a particular permit, condition, term or restriction does not relieve the Developer of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and year first above written.

OWNER:

WITNESSES:

TAYLOR MORRISON OF CAROLINAS, INC., a North Carolina corporation

_____
Name:

By: _____
Name: _____
Title: _____

_____
Name:

STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF YORK)

The foregoing instrument was acknowledged before me this _____day of _____, 2015 by _____, as _____ of Taylor Morrison of Carolinas, Inc., a North Carolina corporation. He personally appeared before me and is personally known to me.

_____
Notary Public
My Commission Expires:_____

[TOWN SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the day and year first above written.

TOWN:

WITNESSES:

TOWN OF FORT MILL

_____
Name:

By: _____
Name: _____
Title: _____

_____
Name:

STATE OF SOUTH CAROLINA)
) ss:
COUNTY OF YORK)

The foregoing instrument was acknowledged before me this _____day of_____ _____, 2015 by _____, the _____ of the Town of Fort Mill. He personally appeared before me and is personally known to me.

_____
Notary Public
My Commission Expires: _____

[END TOWN SIGNATURE PAGES – EXHIBITS FOLLOW]

EXHIBIT A

South Carolina Local Government Development Agreement Act
as Codified in Sections 6-31-10 through 6-31-160
of the Code of Laws of South Carolina (1976), as amended

Title 6 – Local Government – Provisions Applicable to Special Purpose Districts and Other Political Subdivisions

CHAPTER 31.

SOUTH CAROLINA LOCAL GOVERNMENT DEVELOPMENT AGREEMENT ACT

SECTION 6-31-10. Short title; legislative findings and intent; authorization for development agreements; provisions are supplemental to those extant.

(A) This chapter may be cited as the "South Carolina Local Government Development Agreement Act".

(B)(1) The General Assembly finds: The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning.

(2) Assurance to a developer that upon receipt of its development permits it may proceed in accordance with existing laws and policies, subject to the conditions of a development agreement, strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, reduces the economic costs of development, allows for the orderly planning of public facilities and services, and allows for the equitable allocation of the cost of public services.

(3) Because the development approval process involves the expenditure of considerable sums of money, predictability encourages the maximum efficient utilization of resources at the least economic cost to the public.

(4) Public benefits derived from development agreements may include, but are not limited to, affordable housing, design standards, and on and off-site infrastructure and other improvements. These public benefits may be negotiated in return for the vesting of development rights for a specific period.

(5) Land planning and development involve review and action by multiple governmental agencies. The use of development agreements may facilitate the cooperation and coordination of the requirements and needs of the various governmental agencies having jurisdiction over land development.

(6) Development agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State.

(C) It is the intent of the General Assembly to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

(D) This intent is effected by authorizing the appropriate local governments and agencies to enter into development agreements with developers, subject to the procedures and requirements of this chapter.

© This chapter must be regarded as supplemental and additional to the powers conferred upon local governments and other government agencies by other laws and must not be regarded as in derogation of any powers existing on the effective date of this chapter.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-20. Definitions.

As used in this chapter:

(1) "Comprehensive plan" means the master plan adopted pursuant to Sections 6-7-510, et seq., 5-23-490, et seq., or 4-27-600 and the official map adopted pursuant to Section 6-7-1210, et seq.

(2) "Developer" means a person, including a governmental agency or redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, who intends to undertake any development and who has a legal or equitable interest in the property to be developed.

(3) "Development" means the planning for or carrying out of a building activity or mining operation, the making of a material change in the use or appearance of any structure or property, or the dividing of land into three or more parcels. "Development", as designated in a law or development permit, includes the planning for and all other activity customarily associated with it unless otherwise specified. When appropriate to the context, "development" refers to the planning for or the act of developing or to the result of development. Reference to a specific operation is not intended to mean that the operation or activity, when part of other operations or activities, is not development. Reference to particular operations is not intended to limit the generality of this item.

(4) "Development permit" includes a building permit, zoning permit, subdivision approval, rezoning certification, special exception, variance, or any other official action of local government having the effect of permitting the development of property.

(5) "Governing body" means the county council of a county, the city council of a municipality, the governing body of a consolidated political subdivision, or any other chief governing body of a unit of local government, however designated.

(6) “Land development regulations” means ordinances and regulations enacted by the appropriate governing body for the regulation of any aspect of development and includes a local government zoning, rezoning, subdivision, building construction, or sign regulations or any other regulations controlling the development of property.

(7) “Laws” means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies and rules adopted by a local government affecting the development of property and includes laws governing permitted uses of the property, governing density, and governing design, improvement, and construction standards and specifications, except as provided in Section 6-31-140 (A).

(8) “Property” means all real property subject to land use regulation by a local government and includes the earth, water, and air, above, below, or on the surface, and includes any improvements or structures customarily regarded as a part of real property.

(9) “Local government” means any county, municipality, special district, or governmental entity of the State, county, municipality, or region established pursuant to law which exercises regulatory authority over, and grants development permits for land development or which provides public facilities.

(10) “Local planning commission” means any planning commission established pursuant to Sections 4-27-510, 5-23-410, or 6-7-320.

(11) “Person” means an individual, corporation, business or land trust, estate, trust, partnership, association, two or more persons having a joint or common interest, state agency, or any legal entity.

(12) “Public facilities” means major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 3.

SECTION 6-31-30. Local governments authorized to enter into development agreements; approval of county or municipal governing body required.

A local government may establish procedures and requirements, as provided in this chapter, to consider and enter into development agreements with developers. A development agreement must be approved by the governing body of a county or municipality by the adoption of an ordinance.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-40. Developed property must contain certain number of acres of highland; permissible durations of agreements for differing amounts of highland content.

A local government may enter into a development agreement with a developer for the development of property as provided in this chapter provided the property contains twenty-five acres or more of highland. Development agreements involving property containing no more than two hundred fifty acres of highland shall be for a term not to exceed five years. Development agreements involving property containing one thousand acres or less of highland but more than two hundred fifty acres of highland shall be for a term not to exceed ten years. Development agreements involving property containing two thousand acres or less of highland but more than one thousand acres of highland shall be for a term not to exceed twenty years. Development agreements involving property containing more than two thousand acres and development agreements with a developer which is a redevelopment authority created pursuant to the provisions of the Military Facilities Redevelopment Law, regardless of the number of acres of property involved, may be for such term as the local government and the developer shall elect.

HISTORY: 1993 Act No. 150, Section 1; 1994 Act No. 462, Section 4.

SECTION 6-31-50. Public hearings; notice and publication.

(A) Before entering into a development agreement, a local government shall conduct at least two public hearings. At the option of the governing body, the public hearing may be held by the local planning commission.

(B)(1) Notice of intent to consider a development agreement must be advertised in a newspaper of general circulation in the county where the local government is located. If more than one hearing is to be held, the day, time, and place at which the second public hearing will be held must be announced at the first public hearing.

(2) The notice must specify the location of the property subject to the development agreement, the development uses proposed on the property, and must specify a place where a copy of the proposed development agreement can be obtained.

(C) In the event that the development agreement provides that the local government shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to defined completion percentages or other defined performance standards to be met by the developer.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-60. What development agreement must provide; what it may provide; major modification requires public notice and hearing.

(A) A development agreement must include:

(1) a legal description of the property subject to the agreement and the names of its legal and equitable property owners;

(2) the duration of the agreement. However, the parties are not precluded from extending the

termination date by mutual agreement or from entering into subsequent development agreements;

(3) the development uses permitted on the property, including population densities and building intensities and height;

(4) a description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development;

(5) a description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property as may be required or permitted pursuant to laws in effect at the time of entering into the development agreement;

(6) a description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing the permitting requirements, conditions, terms, or restrictions;

(7) a finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations;

(8) a description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens; and

(9) a description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(B) A development agreement may provide that the entire development or any phase of it be commenced or completed within a specified period of time. The development agreement must provide a development schedule including commencement dates and interim completion dates at no greater than five year intervals; provided, however, the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of the development agreement pursuant to Section 6-31-90, but must be judged based upon the totality of the circumstances. The development agreement may include other defined performance standards to be met by the developer. If the developer requests a modification in the dates as set forth in the agreement and is able to demonstrate and establish that there is good cause to modify those dates, those dates must be modified by the local government. A major modification of the agreement may occur only after public notice and a public hearing by the local government.

(C) If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement.

(D) The development agreement also may cover any other matter not inconsistent with this

chapter not prohibited by law.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-70. Agreement and development must be consistent with local government comprehensive plan and land development regulations.

A development agreement and authorized development must be consistent with the local government's comprehensive plan and land development regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-80. Law in effect at time of agreement governs development; exceptions.

(A) Subject to the provisions of Section 6-31-140 and unless otherwise provided by the development agreement, the laws applicable to development of the property subject to a development agreement, are those in force at the time of execution of the agreement.

(B) Subject to the provisions of Section 6-31-140, a local government may apply subsequently adopted laws to a development that is subject to a development agreement only if the local government has held a public hearing and determined:

(1) the laws are not in conflict with the laws governing the development agreement and do not prevent the development set forth in the development agreement;

(2) they are essential to the public health, safety, or welfare and the laws expressly state that they apply to a development that is subject to a development agreement;

(3) the laws are specifically anticipated and provided for in the development agreement;

(4) the local government demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement which changes, if not addressed by the local government, would pose a serious threat to the public health, safety, or welfare; or

(5) the development agreement is based on substantially and materially inaccurate information supplied by the developer.

(C) This section does not abrogate any rights preserved by Section 6-31-140 herein or that may vest pursuant to common law or otherwise in the absence of a development agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-90. Periodic review to assess compliance with agreement; material breach by developer; notice of breach; cure of breach or modification or termination of agreement.

(A) Procedures established pursuant to Section 6-31-40 must include a provision for requiring periodic review by the zoning administrator, or, if the local government has no zoning administrator, by an appropriate officer of the local government, at least every twelve months, at which time the developer must be required to demonstrate good faith compliance with the terms of the development agreement.

(B) If, as a result of a periodic review, the local government finds and determines that the developer has committed a material breach of the terms or conditions of the agreement, the local government shall serve notice in writing, within a reasonable time after the periodic review, upon the developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing the developer a reasonable time in which to cure the material breach.

(C) If the developer fails to cure the material breach within the time given, then the local government unilaterally may terminate or modify the development agreement; provided, that the local government has first given the developer the opportunity:

(1) to rebut the finding and determination; or

(2) to consent to amend the development agreement to meet the concerns of the local government with respect to the findings and determinations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-100. Amendment or cancellation of development agreement by mutual consent of parties or successors in interest.

A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-110. Validity and duration of agreement entered into prior to incorporation or annexation of affected area; subsequent modification or suspension by municipality.

(A) Except as otherwise provided in Section 6-31-130 and subject to the provisions of Section 6-31-140, if a newly-incorporated municipality or newly-annexed area comprises territory that was formerly unincorporated, any development agreement entered into by a local government before the effective date of the incorporation or annexation remains valid for the duration of the agreement, or eight years from the effective date of the incorporation or annexation, whichever is earlier. The parties to the development agreement and the municipality may agree that the development agreement remains valid for more than eight years; provided, that the longer period may not exceed fifteen years from the effective date of the incorporation or annexation. The parties to the development agreement and the municipality have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the unincorporated territory of the county.

(B) After incorporation or annexation the municipality may modify or suspend the provisions of the development agreement if the municipality determines that the failure of the municipality to do so would place the residents of the territory subject to the development agreement, or the residents of the municipality, or both, in a condition dangerous to their health or safety, or both.

(C) This section applies to any development agreement which meets all of the following:

(1) the application for the development agreement is submitted to the local government operating within the unincorporated territory before the date that the first signature was affixed to the petition for incorporation or annexation or the adoption of an annexation resolution pursuant to Chapter 1 or 3 of Title 5; and

(2) the local government operating within the unincorporated territory enters into the development agreement with the developer before the date of the election on the question of incorporation or annexation, or, in the case of an annexation without an election before the date that the municipality orders the annexation.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-120. Developer to record agreement within fourteen days; burdens and benefits inure to successors in interest.

Within fourteen days after a local government enters into a development agreement, the developer shall record the agreement with the register of mesne conveyance or clerk of court in the county where the property is located. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-130. Agreement to be modified or suspended to comply with later-enacted state or federal laws or regulations.

In the event state or federal laws or regulations, enacted after a development agreement has been entered into, prevent or preclude compliance with one or more provisions of the development agreement, the provisions of the agreement must be modified or suspended as may be necessary to comply with the state or federal laws or regulations.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-140. Rights, duties, and privileges of gas and electricity suppliers, and of municipalities with respect to providing same, not affected; no extraterritorial powers.

(A) The provisions of this act are not intended nor may they be construed in any way to alter or amend in any way the rights, duties, and privileges of suppliers of electricity or natural gas or of

municipalities with reference to the provision of electricity or gas service, including, but not limited to, the generation, transmission, distribution, or provision of electricity at wholesale, retail or in any other capacity.

(B) This chapter is not intended to grant to local governments or agencies any authority over property lying beyond their corporate limits.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-145. Applicability to local government of constitutional and statutory procedures for approval of debt.

In the event that any of the obligations of the local government in the development agreement constitute debt, the local government shall comply at the time of the obligation to incur such debt becomes enforceable against the local government with any applicable constitutional and statutory procedures for the approval of this debt.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-150. Invalidity of all or part of Section 6-31-140 invalidates chapter.

If Section 6-31-140 or any provision therein or the application of any provision therein is held invalid, the invalidity applies to this chapter in its entirety, to any and all provisions of the chapter, and the application of this chapter or any provision of this chapter, and to this end the provisions of Section 6-31-140 of this chapter are not severable.

HISTORY: 1993 Act No. 150, Section 1.

SECTION 6-31-160. Agreement may not contravene or supersede building, housing, electrical, plumbing, or gas code; compliance with such code if subsequently enacted.

Notwithstanding any other provision of law, a development agreement adopted pursuant to this chapter must comply with any building, housing, electrical, plumbing, and gas codes subsequently adopted by the governing body of a municipality or county as authorized by Chapter 9 of Title 6. Such development agreement may not include provisions which supersede or contravene the requirements of any building, housing, electrical, plumbing, and gas codes adopted by the governing body of a municipality or county.

HISTORY: 1993 Act No. 150, Section 1.

EXHIBIT B

Concept Plan

[to be attached]

EXHIBIT C

R-5 Zoning Classification

[to be attached]

EXHIBIT D

Property Description

[to be inserted]

EXHIBIT E

Development Schedule

[to be inserted]

EXHIBIT F

Description of Land Dedicated for Public Purposes

[to be inserted]

EXHIBIT G

Present Legal Owner(s) of Property

John P. Talkington
Delores M. Talkington
Jason Todd Talkington
Justin Ryan Talkington

EXHIBIT H

Water and Sewer Action Plan

[to be inserted]